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SENATE RULES COMMITTEE
STATE OF CALIFORNIA

Legislature



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1 HEARING

2 SENATE RULES COMMITTEE

3 STATE OF CALIFORNIA

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8 STATE PRESENT

9
10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

13
14 ALSO PRESENT

15
16 WEDNESDAY, MAY 31, 1989

17 3:05 P.M.

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22
23
24 Reported by:

25
26 Evelyn Mizak
27 Shorthand Reporter
28

1 APPEARANCES

2 MEMBERS PRESENT

3 SENATOR DAVID ROBERTI, Chairman

4 SENATOR WILLIAM CRAVEN, Vice Chairman

5 SENATOR ROBERT BEVERLY

6 SENATOR HENRY MELLO

7 SENATOR NICHOLAS PETRIS

8 STAFF PRESENT

9 CLIFF BERG, Executive Officer

10 PAT WEBB, Committee Secretary

11 RICK ROLLENS, Consultant on Bill Referrals

12 NANCY MICHEL, Consultant on Governor's Appointments

13 ALSO PRESENT

14 BORGNY BAIRD, Member

15 Board of Governors of the California Community Colleges

16 DEBORAH M. HESSE, Member and Chair

17 Public Employment Relations Board

18 JOHN F. PARKHURST, Member

19 Board of Governors of the California Community Colleges

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P R O C E E D I N G S

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SENATOR CRAVEN: I would ask the permission of the Members to deviate from the agenda and go to Governor's Appointees appearing today. We have one lady who has to catch a flight, and I think it would be a tremendous help to her if we could hear her now.

Do you have any objection to that?

I would call Borgny Baird, Member, Board of Governors of the California Community Colleges.

Nice to have you with us today, Ms. Baird.

MS. BAIRD: Thank you. It's nice to be here.

SENATOR CRAVEN: We'll ask you, Ms. Baird, as we do all of the Governor's Appointees, why you feel you are qualified for this particular position?

MS. BAIRD: I have been serving on the Board of Governors now for 4½ years, holding various positions, including being President of the Board. And during my 4½ years on the Board, I feel I have learned a great deal about the community colleges and the problems they face.

I also -- because there are many new Board members now present on the Board, I'm one of the senior members, and therefore feel that it would be good if I could stay on to furnish a continuity to the Board.

I am very, very much interested in the community colleges and would feel that it has been a real privilege to be able to serve.

2
1 SENATOR CRAVEN: Very well, thank you very much.

2 Ms. Baird was appointed back in March; is that correct?

3 MS. BAIRD: Yes -- no, I think it was January; wasn't
4 it? Maybe it was March.

5 SENATOR CRAVEN: It doesn't make that much difference.
6 I just wanted to make known the fact that you have served and
7 continue to serve.

8 Do any of the Members have any questions of Ms. Baird?
9 Senator Petris.

10 SENATOR PETRIS: Yes, I'm interested in the reform
11 movement and the legislation, 1725, which we spent a lot of time
12 on here.

13 MS. BAIRD: Right.

14 SENATOR PETRIS: And as it relates to the community
15 colleges, it requires the Board of Governors to do certain
16 things. One is, it's going to eliminate the present college
17 credentials system and replace it with a new system of faculty,
18 staff, et cetera, and administrative qualifications. And the
19 Board has the duty to establish the new system statewide.

20 MS. BAIRD: Right.

21 SENATOR PETRIS: Are you in the process of doing that
22 now?

23 MS. BAIRD: That's correct. We have had one reading at
24 our Board meeting of proposed minimum qualifications, which have
25 been developed by the statewide Academic Senate, and we will --
26 we had one hearing in Los Angeles on it after our meeting, and we
27 will continue to proceed with that.
28

1 SENATOR PETRIS: Are you creating a new financial
2 mechanism called Program Fund Basing?

3 MS. BAIRD: Am I familiar with the Program Based
4 Funding?

5 SENATOR PETRIS: Yes.

6 MS. BAIRD: Fairly so. I believe I understand it.

7 SENATOR PETRIS: Is the Board working to create that --

8 MS. BAIRD: Yes.

9 SENATOR PETRIS: -- as required by AB 1725?

10 MS. BAIRD: Yes, yes, we are.

11 SENATOR PETRIS: Are you working with the Governor on
12 these changes?

13 MS. BAIRD: With the changes on the minimum
14 qualifications, we have been working with the Academic Senate
15 rather than with the Governor's Office.

16 SENATOR PETRIS: How about the funding?

17 MS. BAIRD: The funding will have to be worked with the
18 Governor's Office.

19 SENATOR PETRIS: Have there been any meetings on that
20 with him?

21 MS. BAIRD: Not that I'm aware of.

22 SENATOR PETRIS: The bill calls for reforms which will
23 cost about \$140 million, and the Governor's budget doesn't
24 provide one penny for that.

25 Is the Board --

26 MS. BAIRD: The Board is seeking funding for the
27 implementation of AB 1725 --
28

1 SENATOR PETRIS: You have done that?

2 MS. BAIRD: -- to the extent possible, yes, in our
3 Budget Change Requests and so on, yes, we are asking for that.

4 SENATOR PETRIS: They weren't heeded, apparently.
5 They're still not there.

6 MS. BAIRD: Well, it's been partially -- parts of it
7 have been funded.

8 SENATOR PETRIS: How much?

9 MS. BAIRD: I can't quote you the exact figure.

10 SENATOR PETRIS: A small part or a big part?

11 MS. BAIRD: It's still a small part at this point.

12 SENATOR PETRIS: Teensy-weensy.

13 MS. BAIRD: Parts of matriculation has been partly
14 funded, but not all the way, and there's so many other things,
15 but the entire funding of 1725 will undoubtedly take more than
16 just the --

17 SENATOR PETRIS: More money.

18 MS. BAIRD: Yes.

19 SENATOR PETRIS: Just what are the efforts being made?

20 You know, if the Board, which is made responsible for
21 doing this by a bill that the Governor signed, doesn't climb all
22 over the Governor to get the money, how are you ever going to get
23 it?

24 MS. BAIRD: Oh, we will climb all over the Governor if
25 we have to. We've tried to do it without that.

26 SENATOR PETRIS: How much climbing have you done so far?

27 (Laughter.)
28

1 MS. BAIRD: Well, personally, I have not done any
2 climbing.

3 SENATOR CRAVEN: First she has to get up the tower,
4 Nick.

5 MS. BAIRD: Yes.

6 But basically, our efforts come through our Budget
7 Requests, which --

8 SENATOR PETRIS: That's part of the process that all the
9 agencies go through, but beyond that, it seems to me there ought
10 to be a direct personal plea with the Governor.

11 I'm interesting in knowing, is that left to the Chair,
12 the Chancellor? Do the Board members do it in small numbers, or
13 all together? Just what is the mechanism you've been using?

14 MS. BAIRD: Okay, the -- much of it is done through the
15 Chancellor. And the Chairman of the Board also would be the one.

16 We have not, to my knowledge, set up any meeting with
17 the Governor as a small group or as a group of Board members for
18 the purpose of obtaining additional funds for 1725. It's
19 basically being done through our regular process by our Budget
20 Change Proposals, which include requests for funding.

21 But, of course, as that process goes along, the
22 Chancellor and staff will meet with the Department of Finance and
23 with the Governor's representative. So far we have been using
24 the normal --

25 SENATOR PETRIS: You have been doing that.

26 Is there any sign of hope there, any progress?
27
28

1 MS. BAIRD: Oh, I think so; I think so. I think the
2 Governor is interested in funding 1725.

3 SENATOR PETRIS: To the full extent required?

4 MS. BAIRD: Oh, I think so, yes.

5 SENATOR PETRIS: You're also required to create staffing
6 criteria. What progress is being made there?

7 MS. BAIRD: Staffing criteria for the Chancellor's
8 Office, are you talking about?

9 SENATOR PETRIS: No, for the --

10 MS. BAIRD: Criteria for the staffing --

11 SENATOR PETRIS: -- whole system.

12 MS. BAIRD: We have not really gotten into the minimum
13 standards requirement for the staffing to the extent we have with
14 the credentialing or the minimum standards for faculty, but it's
15 being worked on.

16 You know, we only meet about six times a year, so things
17 move a bit slowly.

18 SENATOR PETRIS: Does that mean that all these duties
19 fall on the staff and the Chancellor?

20 MS. BAIRD: A lot of them fall on the staff, and then
21 they come to our Board for us to comment and so forth, and then
22 come back for action at usually the following meeting,.

23 SENATOR PETRIS: Do you see your duties as including
24 affirmatively pushing for things that are required by the
25 statute?

26 MS. BAIRD: Yes, to some degree, but we're somewhat
27 limited by the fact that, you know, the Chancellor's office staff
28

1 is all civil service, and we are short on staff. And even though
2 we request many things from staff, they can only do so much in
3 the time that we they have and with the number of staff that we
4 have. We are understaffed, actually, in the Chancellor's office.

5 SENATOR PETRIS: Are you asking for more?

6 MS. BAIRD: Oh, we can always ask for more, and we have,
7 indeed, requested more, and we'll be getting more, as a matter of
8 fact.

9 SENATOR PETRIS: How about the coordination between the
10 local districts and the State Board on the vocational education?
11 There's a big gap there in the statute requirements --

12 MS. BAIRD: There's a gap basically still between our
13 Board and the local boards. And that's one of the things that
14 the current President of the Board has asked me to work on,
15 setting up a more formalized system by which we can have a closer
16 contact with local boards.

17 We need to do that, because we all believe strongly in
18 local control, and we need to be in consultation with the local
19 trustees.

20 We -- before our last Board meeting, we had a meeting
21 the night before with representatives of the local trustees, and
22 we are trying to work out some system by which those kinds of
23 meetings, or some other kind, will be formalized enough so that
24 they will automatically take place. That would, of course,
25 include vocational education as well as academic education.

26 But I think it's a very, very important thing for us to
27 do.
28

1 SENATOR PETRIS: I notice in your education, you have
2 Bachelor's Degree in Political Science from UCLA?

3 MS. BAIRD: From UCLA.

4 SENATOR PETRIS: And Boalt Hall.

5 MS. BAIRD: Boalt Hall, that's correct.

6 SENATOR PETRIS: So you did a lot of reading in those
7 years.

8 MS. BAIRD: I did a lot of reading.

9 SENATOR PETRIS: That brings me to the next subject that
10 is a very sore one with me. It's really a blight on our whole
11 country, and that's the terrible extent of illiteracy in the U.S.

12 MS. BAIRD: Yes.

13 SENATOR PETRIS: It's reported that 4 million
14 Californians are illiterate.

15 Now, 1725 also recommends that the Legislature should
16 move on this and do something. It said it should require that
17 community colleges, giving you the first lead, I guess, and other
18 adult education centers enter into agreements to provide literacy
19 programs.

20 Now, the only ones that I know of that are really moving
21 are the ones handled by the counties through the county education
22 system, and the libraries, where they are, I know in my county,
23 they're doing as much as they can, not nearly enough.

24 What is the Board doing on this so far?

25 MS. BAIRD: Well, as I'm sure you're basically aware,
26 the community colleges have many remedial reading programs. And
27 I can't say for sure, because again, statistics don't always stay
28

1 with me, but I think most of the colleges have -- offer remedial
2 reading programs and remedial English programs, and so on, as
3 well as remedial math programs. So, I think a great deal is
4 being done.

5 SENATOR PETRIS: Is it enough?

6 MS. BAIRD: No, not enough, but at least to improve the
7 reading skills of the students that come to our colleges. That's
8 part of the assessment process in finding out at what level the
9 students are and trying to help them.

10 Now, on the actual Board level, as far as below high
11 school for the students that come to us, I, like you, am familiar
12 with community programs that are taking place, but obviously, the
13 community colleges could only deal with those students that come
14 to them.

15 SENATOR PETRIS: Yes, you have a ready-made group of
16 students, most of whom have had some time in the public schools
17 and maybe even finished high school.

18 I was thinking of those that hadn't learned to read even
19 at all, period.

20 MS. BAIRD: Yes.

21 SENATOR PETRIS: And they're not likely to be enrolled
22 in a school. It seems to me that the law, although it doesn't
23 have strong mandatory language, it suggests that the Legislature
24 act and that community colleges reach out.

25 Are you going to miss your plane?

26 MS. BAIRD: Well, the EOP&S program --
27
28

1 SENATOR PETRIS: Am I delaying you in catching your
2 plane, by any chance? Do you have to leave to catch a plane?

3 MS. BAIRD: Not for a while, but yes, at 5:30 I have to
4 catch one, so I have time.

5 SENATOR PETRIS: All right.

6 MS. BAIRD: Now I lost my thought, whatever it was.

7 SENATOR PETRIS: The illiteracy, reaching out.

8 MS. BAIRD: Yes, the EOP&S program certainly reaches out
9 to students that -- many of them are not able to do much of
10 anything. I know, for example, the Long Beach City College, I
11 was talking to the Director of that program just three or four
12 days ago about a place in Long Beach where they need to go and
13 recruit because there are a lot of people that are basically
14 practically homeless, and so on, and would qualify for these
15 programs, and they need to be reached and brought in.

16 And that's what they're going to do. He's going to send
17 a couple of recruiters to this area, and it happens to be a
18 Lutheran social service place, where you feed them and give them
19 clothes, et cetera, and see which ones can qualify, and then try
20 to bring them in under that program.

21 Many, many of the colleges are having those programs.

22 SENATOR PETRIS: That also involves a lot of volunteers,
23 doesn't it, who come in and teach --

24 MS. BAIRD: I don't --

25 SENATOR PETRIS: -- in some of those programs?

26 MS. BAIRD: In some of the community programs, yes, yes.
27
28

1 SENATOR PETRIS: Has any thought been given to
2 sponsoring a contest as an encouragement to these adult education
3 centers to reach out and teach people how to read and write? In
4 other words, some kind of recognition for that center that turns
5 the light on for the most in that community?

6 MS. BAIRD: Yes, I'm not aware of any, but it certainly
7 would be a good idea.

8 SENATOR PETRIS: I've taken part in their graduation
9 ceremonies, and I've watched people -- I'm not talking about
10 youngsters of 18 or 20 or 25, but people that are 40 or 50 or 60
11 -- learning how to read for the first time. And the exercise
12 consists of their reading something. It's a very emotional
13 thing. You can feel that electricity running through a whole
14 audience.

15 It seems to me we ought to be putting a lot of attention
16 on this. We are in very dismal shape nationally.

17 MS. BAIRD: I agree.

18 SENATOR PETRIS: And to have California with 4 million
19 people, it's just unacceptable to me. It's disgraceful.

20 MS. BAIRD: It is to most of us.

21 SENATOR PETRIS: Are you going to renew your efforts in
22 that?

23 MS. BAIRD: I'll renew my efforts.

24 SENATOR PETRIS: Do you promise?

25 MS. BAIRD: I promise.

26 SENATOR PETRIS: There are a lot of other things, but
27 let me just cover one, Mr. Chairman.
28

1 I happen to be Chairman of the Subcommittee on the
2 Budget for Education in the Senate side, and we wrestled with
3 Prop. 98 for a considerable period of time. There was some
4 agreement that's been reached to provide \$84 million to the
5 community colleges, additional money: 70 million in one
6 category, and 14 in another. Matriculation, 14 --

7 MS. BAIRD: Yes.

8 SENATOR PETRIS: -- under the same bill I've been
9 talking about, AB 1725.

10 Do you find that compromise acceptable?

11 MS. BAIRD: Well, you know, I personally didn't much
12 favor Prop. 98, and our Board took a neutral position --

13 SENATOR PETRIS: You know, everybody's been telling me
14 that lately. I'd like to know who voted for it.

15 MS. BAIRD: Well, I don't know. I mean, I was
16 surprised, personally, that it passed, and our Board took a
17 neutral position on Prop. 98, but --

18 SENATOR PETRIS: But apparently the community colleges
19 are --

20 MS. BAIRD: -- we compromised. We need to seek all the
21 funds we can get.

22 SENATOR PETRIS: And you did get an agreement with Mr.
23 Honig?

24 MS. BAIRD: Yes, I believe that that --

25 SENATOR PETRIS: And he agreed to give up a certain
26 amount?

1 MS. BAIRD: -- negotiation was done by the Chancellor
2 rather than by the Board.

3 SENATOR PETRIS: I see.

4 Thank you. I wish you well. You're in a tough spot
5 there. You've got a lot of things to do.

6 MS. BAIRD: Well, there's lots of things to do, but it's
7 a privilege to be a part of the group that's trying to do
8 something.

9 SENATOR PETRIS: Thank you.

10 SENATOR CRAVEN: Very well.

11 Do the other Senators have questions of Ms. Baird? Do
12 we have a motion?

13 SENATOR BEVERLY: If there's no opposition, I'm prepared
14 to make a motion.

15 SENATOR CRAVEN: Is there anyone in opposition? There
16 appears to be none.

17 SENATOR BEVERLY: Ms. Baird is a longtime respected
18 member of the Long Beach community, as you can see from her
19 record.

20 I'd be pleased to make the motion to approve her
21 recommendation.

22 SENATOR CRAVEN: Very well, Senator Beverly moves. No
23 further comment, call the roll, please.

24 SECRETARY WEBB: Senator Beverly.

25 SENATOR BEVERLY: Aye.

26 SECRETARY WEBB: Senator Mello.

27 SENATOR MELLO: Aye.
28

1 SECRETARY WEBB: Senator Petris.

2 SENATOR PETRIS: Aye.

3 SECRETARY WEBB: Senator Craven.

4 SENATOR CRAVEN: Aye.

5 SECRETARY WEBB: Senator Roberti.

6 CHAIRMAN ROBERTI: Aye.

7 The vote is four to zero; the confirmation is
8 recommended to the Floor.

9 MS. BAIRD: Thank you.

10 (Thereupon the Rules Committee
11 acted upon legislative items on
12 the agenda.)

13 CHAIRMAN ROBERTI: Next is Deborah M. Hesse, Member and
14 Chair of the Public Employment Relations Board.

15 Ms. Hesse, we'll ask you the same question we ask all
16 the Governor's Appointees, and that is why you feel you're
17 qualified to take on this position?

18 MS. HESSE: Thank you. Good afternoon, Mr. Chairman and
19 Members of the Rules Committee.

20 My name is Deborah Hesse. I have approximately 14 years
21 of administrative and managerial experience. With the State of
22 California, I have held various employment and labor related
23 positions. I've worked as the Assistant Director for the
24 Governor's Office of Employee Relations; that is, prior to the
25 passage of the Dills Act. And I have also served as the Chief
26 Deputy Director of the Department of Personnel Administration.
27
28

1 In those assignments, I have held grievance meetings,
2 assisted in the development of collective bargaining proposals.
3 I have administered rank and file salary, wages, benefits and
4 miscellaneous employee entitlement programs. And I have also
5 worked as an affirmative action officer of a large department.
6 For the past five years, I have served as the member and
7 designated Chairperson of the Public Employment Relations Board.

8 The Board, as you know, is a small, administrative
9 agency that has basically been given two jobs by the Legislature.
10 Our first statutory mission is to adjudicate the unfair practice
11 charges, handle representational issues, and we coordinate
12 mediation, fact finding, and arbitration of those disputes.

13 Our second statutory mission is to develop a framework
14 from which management and labor can use to find various tools to
15 settle the disputes that occur in the bilateral process.

16 With respect to the first basic mission that the
17 Legislature has given us, with the assistance of my colleagues, I
18 have authored over 126 decisions in five years. Also, I have
19 worked to encourage our able staff to demystify the adjudicatory
20 process, and by that, I mean to simplify the process so that a
21 party does not have to be an attorney or hire an attorney to
22 understand what the collective bargaining statutes and rules
23 provide. We have tried to serve the community that is under our
24 jurisdiction in this manner through the publication of pamphlets
25 and sponsorship of how-to workshops and conferences.

26 Since my time on the Board, with respect to the second
27 mission, the Board has conducted surveys and studies on health
28

1 care cost containment, and what those surveys and studies have
2 resulted in is a number of employers and employee organizations
3 have worked together on cost-cutting measures. We have also
4 developed training programs and have trained fact finders and
5 arbitrators who are, by statute, required to help resolve
6 disputes. And also, very recently, we have developed a
7 labor-management cooperation program.

8 We had a recent two-day conference that we co-sponsored
9 with the Institute of Industrial Relations down in Berkeley, and
10 we attracted over 300 public school employers and employee
11 organizations and employees on a Friday and Saturday. And it was
12 a beautiful day in the Bay Area, and I think it's pretty
13 difficult to hold people all day in a room, but we were able to.
14 And I think that by that -- by the attendance at that conference,
15 that there's a sign, at least to me, that the parties are willing
16 and interested in accepting their responsibilities in an
17 intelligent fashion.

18 I think that as a Chairperson and a member of the Public
19 Employment Relations Board, that I would like to see the parties
20 move towards, in the natural and legitimate adversarial
21 relationships, see the parties move to a position where they can
22 bargain and work together on their problems, particularly in the
23 school area, in such a way that the agenda of both parties is
24 reached and avoid the confrontational experiences that we have
25 had in the past.

26 CHAIRMAN ROBERTI: Thank you very much, Ms. Hesse.

27 Are there any questions? Senator Petris.
28

1 SENATOR PETRIS: Backlog. I understand that you're so
2 jammed up that some cases sit for months, even years, before you
3 get started on them when they get to you.

4 Can you tell us about that?

5 MS. HESSE: In terms of our workload, since I've been
6 there for five years, I have seen the decrease in the turnaround
7 time of our case processing. And when I talk about turnaround
8 time, I'm talking about the day that either an employee,
9 employer, or a union files a charge, to the day, if the case is
10 appealed to the five-member Board, it goes out the door.

11 When I started working at the Board, we had an average
12 of something like 657 days per case. At the current time, from
13 the day -- and this is an average; it's not the worst case or the
14 best case -- at the current time, we are showing a turnaround
15 time of approximately 257 days. That's a little bit under a
16 year. It's not the best time, but that's what the turnaround is.

17 SENATOR PETRIS: What time does that cover? The filing
18 of the complaint, or is it when it reaches you on appeal?

19 MS. HESSE: That is from the day that the party walks in
20 and files a charge to the day that the decision goes out the door
21 at the five-member Board level.

22 SENATOR PETRIS: Is that the latest information you
23 have?

24 MS. HESSE: Yes.

25 SENATOR PETRIS: That's strange. Our staff tells us
26 that just the appellate level alone, the average is 311 days.
27 That's long after the charge has been filed and the first hearing
28

1 has been held, and the administrative law judge has made his
2 recommendation, and then it goes to you on appeal.

3 From the time you get it on appeal, it takes 311 days as
4 of beginning in 1987, this latest study. Maybe there's different
5 studies going on here.

6 MS. HESSE: That may be -- I don't know, you know, how
7 they're counting it, or whether it's -- I'm going by a fiscal
8 year; maybe they're doing calendar year. I don't -- I can't --

9 SENATOR PETRIS: It's in terms of the number of days.

10 MS. HESSE: Right.

11 SENATOR PETRIS: It's 311 days just at the appellate
12 level. I don't know how long it takes prior to that. In some
13 cases they say it sits for months, and sometimes years, before
14 the appellate process begins, after it reaches you. But once it
15 starts, it's 311 days, average.

16 MS. HESSE: I don't believe that's --

17 SENATOR PETRIS: You don't think that's accurate?

18 MS. HESSE: I don't think that's the average.

19 I must say that there are a series of cases that
20 occurred before I came to the Board and since I've been at the
21 Board that are held in abeyance. There is a case called
22 U.C. Regents vs. Wilson, for example, that went to the U.S.
23 Supreme Court. And all the cases -- it was a case that had to do
24 with mail access, the union's access to mail. That case, I
25 think, resulted in something like four decisions, four charges,
26 that were held in abeyance, waiting for the decision from the
27 U.S. Supreme Court because it was on the same issue.

1 SENATOR PETRIS: Sometimes that happens. There's
2 another case on appeal, and you want to wait and see what happens
3 there. I don't know if that's included in the waiting time or
4 not. That would distort it, I suppose.

5 Are you having workshops around the state to facilitate
6 people in their understanding, help people in understanding the
7 process in order to speed it up? There's a bill that provides \$3
8 million to help you do that. I don't know what the status is,
9 but is that a good idea for the Board?

10 MS. HESSE: That bill has to do with labor-management
11 cooperation, and if the bill passes --

12 SENATOR PETRIS: That's down below your appellate level;
13 isn't it?

14 MS. HESSE: Right.

15 That bill, if the bill passes and passes with the
16 appropriation in it, what the intent of the Board is, is to give
17 workshops and training to employee organizations and employers on
18 how to resolve their disputes. It's through an alternative
19 method. It's not a substitute for bargaining, but a different
20 way for them to do their bargaining. In other words, to avoid
21 the type of dispute that we had in Los Angeles.

22 My understanding, I think Senators Morgan and Dills are
23 co-authors on it, and my understanding of the bill at this point
24 is that they're involved in some negotiations on the Prop. 98
25 money, and that has an impact on that particular bill.

26 But in response to part of your question, Senator
27 Petris, we have conducted and continue to conduct workshops on
28

1 how to file their charges and also how to, if you're on the other
2 side, how to defend your charges in our process so that people
3 understand how they're doing it a little bit better.

4 SENATOR PETRIS: You don't make policy at your level.
5 You just decide disputes?

6 MS. HESSE: At my level, we decide the disputes and
7 sometimes, in deciding the disputes, we decide policy.

8 SENATOR PETRIS: One of the policy areas is equal pay
9 for equal work. Do you get some cases in that area?

10 MS. HESSE: We haven't had a case on that yet.

11 SENATOR PETRIS: You haven't?

12 MS. HESSE: No.

13 SENATOR PETRIS: Well, to get on that subject, what's
14 the proper forum for that? Should it be the collective
15 bargaining arena, or should it be a matter of State law, or court
16 decision?

17 MS. HESSE: Some people feel that -- for the lack of
18 terminology I'll call it equal pay for equal work -- should be
19 part of the collective bargaining agreement and should be
20 negotiated.

21 At the current time, I think the State of California has
22 some provisions in its contracts that provide for realignments
23 for classes that were dominated by females to bring their
24 salaries up to the proper level.

25 I think that that type of policy is probably best put
26 into law, and the reason why I say that --

27 SENATOR PETRIS: You mean by statute?
28

1 MS. HESSE: Yes, by statute.

2 The difficulty that I see in the collective bargaining
3 process that might occur -- so far it's been kind of shaky -- is
4 that when collective bargaining agreements are made in the public
5 sector, there's only so much money available. And there are
6 collective bargaining units that are particularly stronger than
7 other collective bargaining units. And the best example I could
8 give you is police and fire; those people usually get what they
9 want, you know, what they're asking for. They don't get
10 everything they want, but they're stronger units. There tends to
11 be more of a -- the employer tends to have more concern about
12 that group of people walking out.

13 And sometimes, the types of changes that need to be made
14 for equal pay for equal work, in other words, is a policy change
15 that the employer might be less inclined to make in the agreement
16 in order to meet the needs of, quote, "stronger" units.

17 SENATOR PETRIS: Should those units be able to walk out
18 legally, police and fire?

19 MS. HESSE: We don't have them under our jurisdiction.
20 I don't know. There are in some sectors in California, in
21 particular the City of Oakland, has binding arbitration. And my
22 understanding there, the reason why they have binding
23 arbitration, the trade-off, is that the police and fire units
24 will not walk out because their dispute will go to an arbitrator
25 and will be settled there.

26 SENATOR PETRIS: Is that a good solution?
27
28

1 MS. HESSE: I think it's a way of getting to a solution.
2 It's a means.

3 SENATOR PETRIS: Oakland's taken a real beating on that
4 financially, plus the fact that the citizens over the last 30
5 years have approved every vote that's come to them to raise
6 police and fire benefits. And the City's going broke just on
7 police and fire benefits alone. It's staggering. Plus the
8 arbitration awards that almost always go in their favor.

9 What about the other public employees under your
10 jurisdiction, the three jurisdictions that you have? Should they
11 have a right to walk out, a right to strike?

12 MS. HESSE: Well, I have ruled actually in two cases
13 that, under the law -- and we're not under common law -- through
14 the statutes that we enforce, that the statutes do not expressly
15 prohibit --

16 SENATOR PETRIS: Are you called on to make decisions on
17 that?

18 MS. HESSE: -- yes -- the right to strike, and also that
19 the statutes do not protect those people that walk out.

20 SENATOR PETRIS: Meaning they could lose their jobs?

21 MS. HESSE: Meaning that if there's disciplinary action,
22 i.e., docking of pay, that the statutes are not clear on whether
23 or not it protects them.

24 The statutes in California that have passed under the
25 Agricultural Labor Relations Act and various municipal and
26 metropolitan districts, that give those quasi-public employees
27 the right to go out, have some terminology that refers to
28

1 concerted activity, gives employees the right to participate in
2 concerted activity. And that particular terminology means the
3 right to strike.

4 In these three statutes that we administer, the language
5 isn't there.

6 SENATOR PETRIS: Overall, in your experience in this
7 capacity, looking at the basic three statutes, do you think
8 there's a pretty good balance in the statutes themselves?

9 MS. HESSE: I think so. There's -- I know that when the
10 Board first started, there was a lot of criticism and complaints
11 from school districts. That was the first act that passed.

12 But over a period of time, I think that there's a lot of
13 balance in the statutes that we have. There's a couple of things
14 that are missing from the statutes, and I know currently that
15 Senator Craven's carrying a bill that will correct one of the
16 things that's missing out of there.

17 SENATOR PETRIS: Do your people make recommendations for
18 legislation when you see a flaw like that? Does the Board
19 itself?

20 MS. HESSE: Up to date, up to the current time, the
21 Board itself and various Board members have said that it would
22 not sponsor any legislation. And I think that the feeling of the
23 Board was that if it sponsored legislation, it would be favoring
24 one side or another in the sponsorship of legislation.

25 We have served as experts for the Assembly Public
26 Employees and Retirement Committee on legislation, and at times
27 the Senate Governmental Organization Committee asks us questions,
28

1 and we provide sort of an informal service so that people come to
2 us and say, "This is what we want to do." We'll say, "Well,
3 you'd have to put it here to make it clear that that's what you
4 want to do."

5 SENATOR PETRIS: Do you think Senator Craven's bill is a
6 good one?

7 MS. HESSE: Officially the Board took a neutral position
8 on that legislation.

9 SENATOR PETRIS: How did it come to his attention?

10 MS. HESSE: I think that a representative of the
11 Teamsters' brought it to him.

12 I worked on a decision that related to it. I think that
13 it's probably a pretty good piece. I think the Legislature
14 probably meant to do it, but somehow didn't.

15 SENATOR PETRIS: Well, you know, that happens all the
16 time.

17 I'm just curious if you, in your experience on the
18 Board, see a serious flaw in the statute, and it comes up
19 repeatedly before you in the cases, shouldn't the Board bring
20 that to the attention of the Legislature? It doesn't mean you're
21 going to be an advocate and you're going to come down here and
22 lobby, but shouldn't you write to us and say, "Look, here's a
23 statute that we've been working with for five years, ten years.
24 And every time we get a case under this statute, this big flaw
25 jumps out at us."

26 We don't know. We're over here doing other things.
27 Shouldn't the Board be free to inform us of that and say, "This
28

1 problem ought to be corrected," without being afraid of being
2 accursed of being biased in one direction or another?

3 MS. HESSE: Yes, I think the Board could do that.

4 And you are correct. There are some little quirks in
5 the statute that appear to have been mistakes. Either it's in
6 two acts and not in the third act, or it's in the wrong place in
7 the act so it doesn't provide the full protection.

8 SENATOR PETRIS: That's very common. We look to people
9 who are administering the law, or people who are subjected to it,
10 to keep us informed on how it's working and keep the balance.

11 I personally would urge the Board and individual members
12 to just let us know. It doesn't mean you have to become a
13 warrior or gladiator to get down there in the battle, but just
14 let us know that this is a problem that you're facing, and it was
15 probably a mistake in the drafting, and it ought to be corrected.

16 There's nothing wrong with that; is there?

17 MS. HESSE: No.

18 SENATOR PETRIS: Thank you.

19 CHAIRMAN ROBERTI: Any other questions of Ms. Hesse? Is
20 there any opposition in the audience?

21 Do I hear a motion?

22 SENATOR CRAVEN: Mr. Chairman, I move the nomination of
23 Ms. Hesse to the Floor.

24 CHAIRMAN ROBERTI: Senator Craven moves the nomination
25 of Ms. Hesse be recommended to the Floor.

26 The Secretary will call the roll.

27 SECRETARY WEBB: Senator Beverly.
28

1 SENATOR BEVERLY: Aye.

2 SECRETARY WEBB: Senator Mello.

3 SENATOR MELLO: Aye.

4 SECRETARY WEBB: Senator Petris.

5 SENATOR PETRIS: Aye.

6 SECRETARY WEBB: Senator Craven.

7 SENATOR CRAVEN: Aye.

8 SECRETARY WEBB: Senator Roberti.

9 CHAIRMAN ROBERTI: Aye.

10 The vote is five to zero; confirmation is recommended to
11 the Floor.

12 Congratulations.

13 MS. HESSE: Thank you.

14 CHAIRMAN ROBERTI: The next nominee is Mr. John F.
15 Parkhurst, Member of the Board of Governors of the California
16 Community Colleges.

17 We'll ask you the same question, John -- we know you
18 well -- but why do you feel you're qualified to assume this
19 position, which I know you've had for a little while now.

20 MR. PARKHURST: Thank you, Senator and Senators. John
21 Parkhurst. I'm currently a member of the Board. I was confirmed
22 about a year ago, serving out an unexpired term.

23 When I presented myself to you a year ago, I suggested,
24 maybe guessed with you a bit, that I felt I had the
25 qualifications. Certainly I based it on my strong interest in
26 education, and particularly the community colleges. I feel
27 they're at a very critical point in our postsecondary education
28 system, and I feel very strongly about community colleges.

1 I felt that was enough to get me started for the first
2 unexpired term. I now have 17 months' experience on the Board.
3 I'm also the Board's representative to CPEC. And at this point
4 in time, I find that my interest has been piqued. I've found
5 everything that goes at the Board, vis-a-vis the policy matters,
6 and the getting to the intricate aspects of the community college
7 function, that my interest has been piqued.

8 I find that, surprisingly pleased, that I'm catching on.
9 I've visited many campuses. I participated in an accreditation
10 visit which was a great learning experience.

11 I think I'm really sensitive to all the various
12 constituencies that come to bear on the Board, representing
13 various facets of the community college system, and particularly,
14 I think, of the students.

15 So, my first 17 months has been very pleasing. I feel I
16 can make a contribution. I'm looking forward, with the help of
17 1725, which you folks passed on to us successfully, I think we
18 can make it a good system.

19 CHAIRMAN ROBERTI: Are there any questions?

20 I guess one problem has been that for a couple of years,
21 people have felt that the community colleges had a multiplicity
22 of plans, and how they fit into the Master Plan for Higher
23 Education is not set. Some people argue, maybe that's not such a
24 bad idea; let each district decide what its proper function is
25 going to be.

26 Do you think that the role of community colleges should
27 be more tightly tailored within a general framework of the Master
28

1 Plan for Higher Education, or this relative great diversity that
2 we have from one district to another should continue?

3 MR. PARKHURST: I'll try to answer your question without
4 being ambivalent.

5 CHAIRMAN ROBERTI: It's a pretty broad question.

6 MR. PARKHURST: Well, I clearly think the first thing
7 the community college should do is meet its basic mission, and
8 that is vocational education, and to prepare students to
9 transfer.

10 Within that we have the adult education that Senator
11 Petris talked about, and some other things that would be unique
12 to the community.

13 I think also each district has to recognize what its
14 district is like, what the business and other employment
15 opportunities are in that district, and they've got to, I think,
16 have the flexibility to develop programs that meet the needs of
17 the community.

18 Clearly, I think the primary mission is vocational
19 education, remedial, if you will, in some cases; things like ESL,
20 and these situations that occur with the immigration situation.
21 Of course, the transfer function is extremely important.

22 CHAIRMAN ROBERTI: Senator Petris.

23 SENATOR PETRIS: We're seeing throughout the country at
24 all levels, high school and the university, a massive exodus of
25 teachers through retirement. I'm told that in the community
26 college system in the next ten years, we're going to lose about
27 half of our teachers.

1 MR. PARKHURST: Yes, sir.

2 SENATOR PETRIS: This opens up a window of opportunity
3 to make a plan to have a truly representational faculty.

4 I've been active in the affirmative action area. I
5 carried legislation on it.

6 I'm wondering if the Board is looking ahead to come up
7 with some kind of a plan with an outreach program and so forth,
8 mindful of the fact that there's an awful tough recruiting
9 competition that's going to be going on nationwide. Teachers are
10 going to be in great demand, and yet, the need for the balance,
11 especially in California, which is shortly to be a minority
12 majority as far as ethnic and racial groups go, and the community
13 college, being the closest to the K-12, closest to the people,
14 you might say, it's even more important that we get some kind of
15 a good reflexion.

16 Is the Board mindful of that, and is the Board working
17 on something to anticipate the problem?

18 MR. PARKHURST: Yes, sir.

19 SENATOR PETRIS: And come up with it? Can you tell me
20 about it?

21 MR. PARKHURST: Our past President, Bill Collander from
22 San Diego, is a Chair. We have our Chairs, but he is heading, if
23 you will, the task force, a one-man task force, working with the
24 staff. Gus Guichard was just recently appointed to a position
25 dealing with that whole subject.

26 At our last Board meeting, we had some private
27 discussions. What's happened, a lot of talk. We're not getting
28

specifics, and clearly the entire Board is committed to an outreach program, a program that has specific time frames to it to say, "By this date, we're going to have a program. We'll have a program to identify the program, and it'll be in place and working by this date. We expect outcomes and outputs by these dates."

A personal point of view, 1725 gives us some time-frames, and I'm not sure what they are -- it's five, six, seven years out there -- whereby we meet certain levels of the proportions of the community. I'm not sure that there is enough of a resource out there, and I would hope that as our programs are developed, we would recognize, if that is in fact the case, that we may have to grow our own. We just may have to start right now, encouraging students in K-12 --

SENATOR PETRIS: Right.

MR. PARKHURST: -- high school, with imaginative kinds of funding -- aid or whatever -- and just start growing our own. And maybe even be so good at it that we export our students as teachers out of state.

SENATOR PETRIS: And hopefully encouraging them to go into teaching.

MR. PARKHURST: Yes, sir.

SENATOR PETRIS: That's great. Thank you.

CHAIRMAN ROBERTI: Any other questions? Any opposition in the audience?

SENATOR CRAVEN: Mr. Chairman, I would move Mr. Parkhurst's nomination to the Floor.

1 CHAIRMAN ROBERTI: Senator Craven moves Mr. Parkhurst's
2 nomination be recommended to the Floor.

3 Secretary will call the roll.

4 SECRETARY WEBB: Senator Beverly.

5 SENATOR BEVERLY: Aye.

6 SECRETARY WEBB: Senator Mello.

7 SENATOR MELLO: Aye.

8 SECRETARY WEBB: Senator Petris.

9 SENATOR PETRIS: Aye.

10 SECRETARY WEBB: Senator Craven.

11 SENATOR CRAVEN: Aye.

12 SECRETARY WEBB: Senator Roberti.

13 CHAIRMAN ROBERTI: Aye.

14 The vote is five to nothing; confirmation is recommended
15 to the Floor.

16 Congratulations.

17 MR. PARKHURST: Thank you, gentlemen.

18 (Thereupon this portion of the Senate
19 Rules Committee hearing was terminated
20 at approximately 4:53 P.M.)

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CERTIFICATE OF SHORTHAND REPORTER


I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

12th day of June, 1989.


EVELYN MIZAK
Shorthand Reporter

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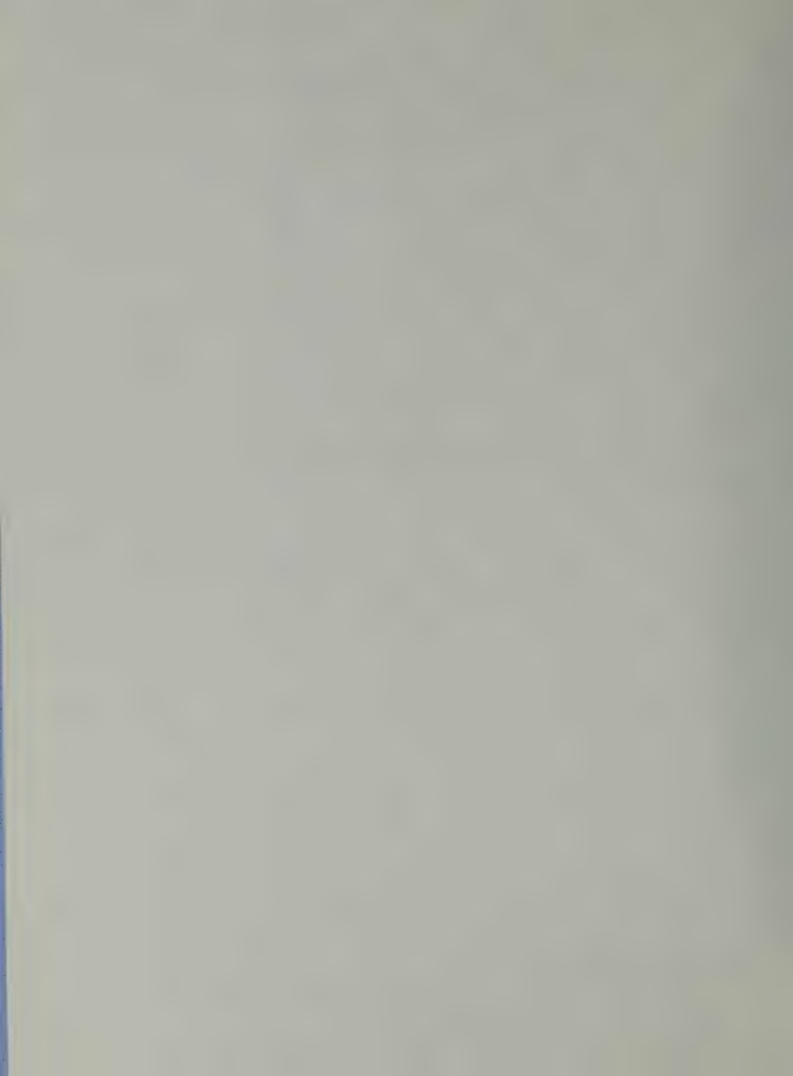
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27 Evelyn Mizak
28 Shorthand Reporter



APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

BARBARA V. CROWLEY, Member

State Energy Resource Conservation and Development Commission

LAWRENCE A. HARRINGTON, Member

Occupational Safety and Health Appeals Board

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P R O C E E D I N G S

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1
2
3 SENATOR CRAVEN: We have some Governor's Appointees
4 appearing today, the first of whom is Barbara V. Crowley, Member
5 of the State Energy Resources, Conservation and Development
6 Commission.

7 MS. CROWLEY, if you would be kind enough to tell us, as
8 we ask all of the Governor's Appointees, why you feel that you
9 are qualified for this particular appointment?

10 MS. CROWLEY: I believe that my five years' experience
11 in this position has qualified me to continue to serve. I've
12 learned the significant issues that face California and feel that
13 I can be a useful member of the Commission.

14 SENATOR CRAVEN: Any questions by Members of the Rules
15 Committee? Is there anyone in the audience that wishes to speak
16 to this issue? There appears to be none.

17 Senator Petris.

18 SENATOR PETRIS: Your background thing mentions your
19 experience in the field of environmental protection and the study
20 of ecosystems.

21 Is that since you came on the Commission or before?

22 MS. CROWLEY: My previous activities as a County
23 Supervisor in rural California led me, to some degree, into that
24 area in land use issues and environmental issues, air quality,
25 and so on. And since I've been on the Commission, as the
26 environmental appointee, I have dealt a good deal in citing cases
27 and in conservation programs and so on with the issues of the
28 environment.

1 SENATOR PETRIS: What was the nature of the
2 environmental battles in Tehama County when you were a
3 Supervisor?

4 MS. CROWLEY: The era was that of air quality concerns
5 and issues with the timber industry and agriculture, and so on,
6 with air quality, and also at that time was the era of heightened
7 State activity with air quality, and we interacted with the State
8 in those matters.

9 SENATOR PETRIS: Did that include the problem of cutting
10 the timber, and which should be and which shouldn't?

11 MS. CROWLEY: Well, that was not an air quality issue.
12 The burning for the logging -- rather, the manufacturing
13 operations and saw mill operations was the air quality in the
14 timber industry.

15 But, yes, we got into land use issues with the Forest
16 Service, with the BLM, and with the State on timber harvesting.

17 SENATOR PETRIS: What's your overall view on that? Are
18 we harvesting too much, not enough?

19 MS. CROWLEY: I've been outside of that timber harvest
20 activity now --

21 SENATOR PETRIS: For quite a while.

22 MS. CROWLEY: -- for a number of years, and so I'm not
23 -- I think the new direction towards sustained yield logging is a
24 very appropriate one, and I think they've instituted some
25 modifications of how the timber people can operate within the
26 timber areas that have been useful for environmental
27 improvements.
28

1 SENATOR PETRIS: You are in that position by virtue of
2 your environmental background.

3 MS. CROWLEY: That's my -- that is my slot. The
4 Warren-Alquist Act names that slot. However, once we are aboard
5 the Commission, we are not tracked into those -- we don't have
6 engineer activities that the engineer does and --

7 SENATOR PETRIS: You do everything, but you have that
8 viewpoint.

9 MS. CROWLEY: That's correct.

10 SENATOR PETRIS: What do you think are the most
11 important environmental issues that have been discussed since
12 you've been on the board?

13 MS. CROWLEY: Well, I think --

14 SENATOR PETRIS: On the Commission.

15 MS. CROWLEY: -- currently, we probably have the most
16 heightened sense of environmental issues on the Commission since
17 I've been on board, and I believe that probably the South Coast
18 Air District's air quality issues, and then the ripple effect of
19 those to other air areas in California are extremely important.
20 Those involve both our citing efforts of power plans and our
21 concern about those being environmentally benign, and also a new
22 issue which is the transportation area. We think that that is
23 going to be an important environmental/transportation subject for
24 concern.

25 SENATOR PETRIS: Can you elaborate on that? Does it
26 mean the burning of fuel?

27

28

1 MS. CROWLEY: It involves the burning of fuel, the
2 efficient transportation motion so that there isn't a lot, for
3 instance, on freeways, of idling vehicles. So, it has other
4 aspects aside from just the fuel itself.

5 SENATOR PETRIS: The idling vehicle pollutes the air
6 more than the moving one; doesn't it?

7 MS. CROWLEY: As I understand it, that's correct, yes,
8 an internal combustion engine vehicle.

9 SENATOR PETRIS: Is the Commission considering
10 recommending an alternative to oil and gasoline?

11 MS. CROWLEY: Well, it would be -- our recommendation
12 has been that we find alternatives to both the environmentally
13 dirty, shall I say, gasoline and also the dependence upon one
14 fuel. So, it would be our hope as a Commission that we would
15 develop an array of alternatives of different kinds, and that
16 they be environmentally beneficial.

17 SENATOR PETRIS: Do you have a program for that?

18 MS. CROWLEY: Yes.

19 SENATOR PETRIS: Are you actively pushing it?

20 MS. CROWLEY: Yes, indeed, we have.

21 SENATOR PETRIS: Where does methanol fit into this?

22 MS. CROWLEY: Methanol is probably the furthest along of
23 the fuel -- of the alternative fuels and has the added advantage
24 of being usable in the internal combustion engine, both as a
25 single fuel and as a mix with gasoline. And so, it has a lot of
26 potential in this arena.

27
28

1 There are other fuels that do as well, but they're a
2 little bit further down on the curve of development. Liquified
3 petroleum gas, compressed natural gas, electric vehicles, all are
4 coming along just really very well, and it's really exciting.

5 SENATOR PETRIS: What's happening with electric vehicles
6 in --

7 MS. CROWLEY: Electric vehicles --

8 SENATOR PETRIS: -- in California?

9 MS. CROWLEY: -- have improved their range considerably.
10 They are becoming less costly, and the proposal made by
11 Councilman Browdy in Los Angeles to have people send in answers
12 to his RFP requesting information about how they would put many
13 electric vehicles on the streets of Los Angeles over a period of
14 five years, I think it was maybe 30,000 vehicles.

15 SENATOR PETRIS: How many are there now statewide?

16 MS. CROWLEY: Of electric vehicles, very few; probably
17 under a thousand.

18 SENATOR PETRIS: Where would I go to buy one? I'd have
19 to make my own; wouldn't I?

20 MS. CROWLEY: I don't think you'd have to make your own,
21 but I think you'd have to go to an assembly plant and tell them
22 that you wanted a modified, say, van and then they would modify
23 it with the batteries and whatnot. It is not an assembly line
24 product at this time, but it can be made.

25 SENATOR PETRIS: Are there any manufactured in
26 California?

27 MS. CROWLEY: Not that I'm aware of.
28

1 SENATOR PETRIS: Assuming that the experts say that
2 those are desirable as alternatives and environmentally sound,
3 shouldn't we be offering some kind of inducements to people to
4 start manufacturing these?

5 MS. CROWLEY: It would certainly be to the benefit of
6 California because of allowing California to develop a diversity
7 of mechanisms for transportation that would move them off total
8 dependence on gasoline, and it would also have significant
9 environmental-air quality benefits.

10 SENATOR PETRIS: Is the Commission doing anything in
11 that direction?

12 MS. CROWLEY: Yes, we are.

13 SENATOR PETRIS: What are you doing?

14 MS. CROWLEY: We are working with the Electric Vehicle
15 Task Force, which is an organization of utilities, electric
16 utilities, manufacturers, EPRI, University and LBL, and a group
17 of people all of whom are interested in making these vehicles
18 more able to penetrate the vehicle market. And there are some
19 potential ways of doing that. And, it would be well worth the
20 Legislature learning about. It would be helpful.

21 SENATOR PETRIS: I want to try out a plan on you I had
22 more than 20 years ago, and I struck out. I think I should have
23 kept on trying.

24 I had probably 15 or 20 bills at one time coming at this
25 from different directions. One of them was to offer \$25 million
26 as a reward from the State to the first individual or company
27 which produced a clean automobile, no pollution.
28

1 The second was moving us toward an electric car by
2 declaring a certain specified downtown area, let's say the
3 enlarged downtown area, of every city in California over a
4 certain size, let's say 300,000 population. Since the experts
5 told us the heaviest concentration of the problem is where the
6 most vehicles are, that's downtown and opposed to being out in
7 the country. So, the plan was to draw a circle defining that
8 perimeter in every city, and prohibiting any internal combustion
9 engine from penetrating the area except for service vehicles,
10 police and fire and so forth.

11 The average commuter or the shopper who would come in
12 during the day would stop at that circle, park the poison engine
13 out there somewhere, and get into a little golf cart, electric,
14 actuated by a credit card. Put the credit card in, it starts,
15 then you drive it into a parking area in town. Then you pick up
16 any other one to go back, again actuating it by credit card. You
17 get billed once a month.

18 How does that sound to you?

19 MS. CROWLEY: Well, it's certainly an innovative
20 approach, and we haven't heard that. It might be well worth
21 getting out of your archives for us to look at.

22 SENATOR PETRIS: Well, I'll be glad to send it. I think
23 we should have done it then. I think we'd have had a much
24 cleaner climate, cleaner air.

25 MS. CROWLEY: At this time, it does fit within our
26 perception that there are particular niches where it would be
27 most useful to utilize.
28

1 SENATOR PETRIS: It doesn't even cover the problem of
2 long distance driving on highways. These are all short trips.

3 MS. CROWLEY: These are all short, and the loop trips,
4 where they come back and then plug in.

5 SENATOR PETRIS: And they're all part of a pool.

6 MS. CROWLEY: Yes, but we were thinking in terms of vans
7 and delivery vehicles, and the sorts of vehicles that are in
8 fleet operations that return to a common site and can get plugged
9 in.

10 In fact, the research work is -- has carried on far
11 enough so that we are looking even at how much of the base load
12 can be used to refuel these vehicles at night with electricity,
13 recharge the batteries at night, without impacting the need for
14 more capacity.

15 SENATOR PETRIS: The third one was to implant a magnet
16 in the bed road. We've seen that done in amusement parks and
17 museums. You get in the vehicle, and it's pulled by the
18 electromagnet magnetic force there, and you just take off. Speed
19 is limited but regulated. You can go up to a certain amount; you
20 can't go more. There again, that could be used for longer trips.

21 I'd like you to pass this on to your experts. Maybe
22 I'll send some stuff over.

23 MS. CROWLEY: I'd appreciate it.

24 SENATOR PETRIS: It seems to me we haven't taken a bold
25 and decisive step that'll lead to a breakthrough.

26 MS. CROWLEY: It's an area of considerable interest and
27 actually considerable need because of the air quality
28 difficulties. So, I would be happy to have your material.

1 SENATOR PETRIS: Your Commission is in the process of
2 studying and making a report on the greenhouse effect, as I
3 understand it.

4 MS. CROWLEY: That's correct.

5 SENATOR PETRIS: When will that come out?

6 MS. CROWLEY: I'm not aware of the timing on that. This
7 isn't one of the things that I have -- the time frame isn't
8 something I've been looking at.

9 SENATOR PETRIS: Are there any preliminary conclusions
10 that have leaked out that you can share with us about air
11 conditioning problems?

12 MS. CROWLEY: I believe it's important for us to start
13 out with the approach that this is an important problem for us to
14 look at, and that if the Energy Commission believes that the
15 final count won't be in until later on whether this is a true
16 problem, at least the things that we would be advocating would be
17 environmentally benign down the road. In other words, there's
18 nothing that we would suggest that would be counterproductive if
19 indeed this problem is as severe as many people believe it to be.

20 SENATOR PETRIS: Would you support a reward system to
21 encourage people to start tinkering in their garages and come up
22 with the answer for a pollution-free automobile, whether it's
23 internal combustion, or a rubber band winding the car in the
24 back, or --

25 MS. CROWLEY: I think at the moment --

26 SENATOR PETRIS: -- it's electric, whatever?
27
28

1 MS. CROWLEY: Yes, I think at the moment we're kind of
2 beyond helping someone tinker in his backyard.

3 It probably is the stage of where the motivation is to
4 get these vehicles on the road and replace the internal
5 combustion engine.

6 SENATOR PETRIS: And what do we do for that?

7 MS. CROWLEY: There are several steps and scenarios that
8 have been suggested. There is the carrot; there is the stick.
9 And I think the Legislature is acquainted with both ways of
10 dealing with issues.

11 SENATOR PETRIS: What's the carrot?

12 MS. CROWLEY: Well, it would seem to me it would be
13 possible to give people credits for their changing over to
14 environmentally benign vehicles. I think there is a bill
15 presently that is considering that. And it may have to do with,
16 at licensing time, some way to encourage them, or it may be at
17 purchase, vehicle purchase time.

18 SENATOR PETRIS: Any others?

19 MS. CROWLEY: Well --

20 SENATOR PETRIS: I've tried that, by the way, and I got
21 dumped every time --

22 MS. CROWLEY: You got dumped every time?

23 SENATOR PETRIS: -- because the incentive wasn't big
24 enough. It was based on our income tax, and the State tax at
25 that time was not large enough to encourage people to do it. We
26 couldn't affect the federal tax.

27 Whose bill is that?
28

1 MS. CROWLEY: I'm sorry, I don't know.

2 SENATOR PETRIS: Do you know whether it's in the
3 Assembly or the Senate?

4 MS. CROWLEY: Can I peek and get it?

5 SENATOR PETRIS: Sure. If you have it, it'd be helpful.

6 MS. CROWLEY: SB 1006.

7 SENATOR PETRIS: Is that Senator Torres' bill?

8 MS. CROWLEY: Senator Leonard's bill.

9 SENATOR PETRIS: Thank you.

10 You also have adopted a contingency plan --

11 MS. CROWLEY: That's correct.

12 SENATOR PETRIS: -- in the case of an oil shortage. Was
13 there any effort to kick that in during the Exxon problem?

14 MS. CROWLEY: It was kicked in at the informational
15 level. The contacts were made that are the ones we do at that
16 first stage so the people who needed to be apprised of the
17 situation instantly were, and we were at the ready to move if the
18 situation deteriorated.

19 As it happened, we also sought a lot of information that
20 was useful to us so that it wasn't necessary to kick into the
21 next stage, phase, or whatever, the contingency came to.

22 SENATOR PETRIS: Didn't get bad enough?

23 MS. CROWLEY: Didn't get bad enough, right.

24 SENATOR PETRIS: Is there a pre-established triggering
25 level?

26 MS. CROWLEY: Yes, and there is a pre-pre as well. In
27 other words, we have a pipeline that staff or someone identifies
28

1 a potential hazard and where do we go from there. And as each
2 step is reached, there are scenarios to respond to them.

3 SENATOR PETRIS: You mentioned pipeline. I'm interested
4 in the natural gas pipeline. There's a lot of discussion going
5 on now and federal activity.

6 MS. CROWLEY: That's correct.

7 SENATOR PETRIS: I understand you're looking for new
8 sources, or maybe the PUC is, but there's a lot of talk about
9 another natural gas pipeline coming in.

10 MS. CROWLEY: That's correct.

11 SENATOR PETRIS: I don't know where; Texas, I guess.

12 MS. CROWLEY: Well, there is one down from the Wyoming
13 area, and there are two or three other applications before the
14 FERC for interstate pipelines, gas transmission.

15 SENATOR PETRIS: Is the Commission encouraging that?

16 MS. CROWLEY: Yes, encouraging cost effective
17 development of new sources of supply.

18 SENATOR PETRIS: What would their primary use be?

19 MS. CROWLEY: The gas pipeline?

20 SENATOR PETRIS: Yes.

21 MS. CROWLEY: It would be twofold. They intend to bring
22 gas in to serve thermally enhance oil recovery units in Kern
23 County and areas where they have the petroleum that they want to
24 make more fluid with steam, and then they will use the
25 electricity, and either use it or sell it, usually sell it to the
26 utility.

1 And then the other is simply to be sure that California
2 doesn't get too close to the edge on how much gas is available
3 for the customers of gas.

4 SENATOR PETRIS: I understand one of the issues is a
5 consumer issue. There's concern, and I share it, that a new gas
6 pipeline will benefit primarily the big commercial users with
7 substantially reduced rates because of a new source of supply
8 paralleling the others, and the residential user would still be
9 left with relatively high costs.

10 What is the Commission doing to avoid that problem?

11 MS. CROWLEY: Well, the problem itself and the working
12 out of the solution is in the hands of the Public Utilities
13 Commission as a rate making function.

14 SENATOR PETRIS: They're doing that.

15 MS. CROWLEY: And so, we have not involved ourselves in
16 that sort of --

17 SENATOR PETRIS: Are you called on to give advisory
18 opinions to them?

19 MS. CROWLEY: Well, I don't know if "called on" is the
20 right word. We do give them advice.

21 (Laughter.)

22 SENATOR PETRIS: Volunteer.

23 Are there differences between your Commission and the
24 Public Utilities on this issue?

25 MS. CROWLEY: Given that we come from a different
26 perspective, occasionally we will have different point of view.
27 But they're usually not something that can't be worked out, or
28 can't be factored into a final decision on something.

1 SENATOR PETRIS: There isn't any major big issue pending
2 between the two now on what's the best public policy?

3 MS. CROWLEY: No.

4 SENATOR PETRIS: How many State agencies are there that
5 deal with energy matters?

6 MS. CROWLEY: State agencies, well --

7 SENATOR PETRIS: Yes, I understand there are about 20;
8 is that right?

9 MS. CROWLEY: I'm sorry, I don't know. Each area of
10 energy usage usually has its own agency, and they haven't done it
11 because it's commonly energy. And the reason is that energy
12 perceived as something to produce a result, like in
13 transportation. You're not really interested in energy; you're
14 interested in transportation. And so, there are a number that
15 are dealing with energy because of its usefulness in many
16 different applications.

17 SENATOR PETRIS: Is the Commission endeavoring somehow
18 to coordinate all that among the various agencies?

19 MS. CROWLEY: Yes, in fact we are in touch with just
20 about every other entity that's involved with energy: producers,
21 suppliers, big users, the public entities that are involved,
22 local jurisdictions.

23 SENATOR PETRIS: When the windmills first started in my
24 county --

25 MS. CROWLEY: Yes.

26 SENATOR PETRIS: -- about 85 million of them just south
27 of San Leandro.
28

1 MS. CROWLEY: Right.

2 SENATOR PETRIS: They were hailed as the greatest thing
3 that's come along since Don Quixote tackled the windmill, as a
4 great source of energy that was clean and that could be sold --
5 in fact, we mandated the sale to be purchased by the utilities.

6 Then, somewhere it turned a corner, and we removed the
7 tax incentives for people to go into that, and it was called a
8 big tax scam.

9 What's the current status of that? Are they in favor,
10 or have they been kind of rejected now?

11 MS. CROWLEY: Well, they do -- there is about 600
12 megawatts of wind supplied power into the grid, and I don't know
13 the number of -- the amount of power that supplies individual,
14 for some reason, some individual application.

15 They have proved to be useful. They are not the answer
16 to all the world's problems. On the other hand, they do provide
17 power in most areas where they function, in the Altamont and down
18 in San Geronio and so on, at a time that's useful for additional
19 power to the grid. So, they are one of a number of options, and
20 it's --

21 SENATOR PETRIS: So, would you say they ought to
22 continue?

23 MS. CROWLEY: I would say yes, that they should
24 continue. And I think some of them have proven to be cost
25 effective even without the tax benefit.

26 SENATOR PETRIS: Are those the only two areas where
27 they're in use?

1 MS. CROWLEY: San Gorgonio, Altamont and another area in
2 Southern California in western Kern County, the Tehachapi area.

3 SENATOR PETRIS: Down in Palm Springs; isn't it?

4 SENATOR CRAVEN: That's San Gorgonio.

5 MS. CROWLEY: That's the San Gorgonio area.

6 SENATOR PETRIS: Bergonio?

7 SENATOR CRAVEN: Gorgonio.

8 MS. CROWLEY: On the south side of the pass just before
9 you get to --

10 SENATOR PETRIS: How is that spelled? Is that G-o-r?

11 SENATOR CRAVEN: Gorgio and nio.

12 MS. CROWLEY: G-o-r-g-o-n-i-o.

13 SENATOR PETRIS: That's very clever. That comes from
14 the gorgon.

15 MS. CROWLEY: Yes.

16 SENATOR PETRIS: You see a gorgon, and it scares the
17 hell out of you, the wind.

18 MS. CROWLEY: Right, and then they go --

19 SENATOR PETRIS: Flap your arms, or something --

20 MS. CROWLEY: Right.

21 SENATOR PETRIS: -- and you generate power.

22 SENATOR CRAVEN: You said 85 million. They must have 90
23 million down there. There's an awful lot of them.

24 MS. CROWLEY: And they have refined some of the
25 technologies so that they have more efficient turbines. Some of
26 the experimental earlier turbines, they've decided, are not it,
27 and that they have continually been working on the equipment, and
28 they are doing a better job with the turbines.

1 SENATOR PETRIS: Do you have statutory authority as an
2 Energy Commission to offer inducements to people to go for
3 alternative sources of power, energy other than oil?

4 MS. CROWLEY: Not per se, but we do -- have received
5 legislative authority in certain contexts to do that sort of
6 thing as well as in other contexts, as witness your program for
7 energy efficiency in small schools.

8 So we do get -- the Legislature does direct us to do
9 programs of different types.

10 SENATOR PETRIS: Now, as one who's been on the
11 Commission for about five years now, if I were to ask you to name
12 the single most important area that you're working in, what would
13 you say?

14 In fact, I'll ask you.

15 (Laughter.)

16 MS. CROWLEY: Can I give two answers?

17 SENATOR PETRIS: Sure.

18 MS. CROWLEY: One is from the Commission's perspective.
19 I would imagine that the most important thing is our effort to
20 coordinate the air quality activities with energy production and
21 use activities, because I think that has important ramifications
22 for the whole state.

23 My personal answer would be the development of the
24 energy trade program, which is an effort that the Legislature has
25 recently written into code that the Governor first allowed us to
26 start doing, which is that we assist energy businesses in trading
27 overseas or out of the country. And the importance of the Energy
28

1 Commission is that energy in every other country is a government
2 function, and so we serve as the bridge between our private
3 sector and the public sector in other countries.

4 We've put together some very interesting programs in
5 alternative energy, where our companies are able to sell hardware
6 or their expertise, or whatever, and the advantages are for the
7 present moment the trade advantages, and over the long term, the
8 advantages are that those companies will be alive and well if we
9 ever need them seriously in California.

10 SENATOR PETRIS: Which countries are involved?

11 MS. CROWLEY: We have a program in Costa Rica to put in
12 geother -- to help them explore and develop the potential for
13 geothermal for wind, and we have an agreement with the
14 Philippines to put in solar voltaics so that they -- in small
15 rural applications -- so that they can keep clinic refrigerators
16 cold for medicines in the far country, which doesn't have a lot
17 of electricity.

18 And several other countries. We're presently conducting
19 a geothermal tour of California, and we have Kenya, Scotland, the
20 Azores, the Philippines, two or three Central American countries.
21 Costa Rica is back to deal with this, Guatemala. And their
22 interest is to make contact with California firms that will help
23 them develop their potential in their own countries.

24 SENATOR PETRIS: Thank you very much. Keep up the good
25 work.

26 MS. CROWLEY: Thank you.

27 Please let me have that material.
28

1 SENATOR PETRIS: Yes.

2 SENATOR CRAVEN: Are there any other questions for Ms.
3 Crowley?

4 Does anyone in the audience wish to testify? There
5 appears to be none.

6 SENATOR BEVERLY: Move the approval of the nomination.

7 SENATOR CRAVEN: Senator Beverly moves. Call the roll,
8 please.

9 SECRETARY WEBB: Senator Beverly.

10 SENATOR BEVERLY: Aye.

11 SECRETARY WEBB: Senator Mello.

12 SENATOR MELLO: Aye.

13 SECRETARY WEBB: Senator Petris.

14 SENATOR PETRIS: Aye.

15 SECRETARY WEBB: Senator Craven.

16 SENATOR CRAVEN: Aye.

17 SECRETARY WEBB: Senator Roberti.

18 CHAIRMAN ROBERTI: Aye.

19 SECRETARY WEBB: Five-zero.

20 SENATOR CRAVEN: Thank you, Ms. Crowley.

21 MS. CROWLEY: Thank you, gentlemen.

22 (Thereupon the Rules Committee

23 acted upon legislative agenda items.)

24 CHAIRMAN ROBERTI: The next appointment is Lawrence A.
25 Harrington, Member of the Occupational Safety and Health Appeals
26 Board.
27
28

1 Mr. Harrington, we will ask you what we ask all the
2 Governor's Appointees, and that's why you feel you're qualified
3 to assume this position?

4 MR. HARRINGTON: Senator, Chairman Roberti and Senators,
5 I don't know why my voice is shaking. It was fine before I sat
6 down here. I can only attribute it --

7 CHAIRMAN ROBERTI: We're not that terrifying, I hope.

8 MR. HARRINGTON: -- to the occasion of my appearance
9 before this body. So, I ask for your indulgence in the event it
10 gets a little shaky and become inaudible at times.

11 When you asked me that question four years ago, I
12 responded by outlining my experience in State government for 20
13 years prior to that time, which I felt prepared me for the
14 position. I discussed the important assignments I had as an
15 administrator and manager of statewide programs in education,
16 finance, and employment services. This was in addition to
17 expressing my interest and desire to serve on the Appeals Board.

18 That interest still exists. Today's question, I
19 believe, must be answered in terms of accomplishments on the
20 Appeals Board over the past four years.

21 The Appeals Board, I can report at this time, is well
22 and in good shape, and under Chairperson Elaine Donaldson and
23 with my colleague, Mike Monegan, we are in the process of shaping
24 and gearing up to handle the re-engagement of the full OSHA
25 program.

26 When Chairman Donaldson and I -- sorry -- Chairperson
27 Donaldson and I were initially appointed by the Governor to the
28

1 Appeals Board, we inherited from our predecessors a very active
2 appeals program. But more significantly, we inherited a sizeable
3 backlog, hundreds of reconsideration cases. Many of these cases,
4 some dating as far back as eight years and farther, involved
5 difficult issues which not only tested the legitimacy of the
6 program, but whether or not OSHA really should exist.

7 That backlog of cases no longer exists. In working in
8 resolving them and deciding on them, I believe we've built a fine
9 body of interpretations and policies regarding the application of
10 the OSHA program, which is protective of employees in the
11 workplace, and fair to employees [sic] who must ensure the safety
12 of employees in the workplace.

13 This may not be appropriate at this time, but I commend
14 Chairman Donaldson for her leadership in getting us through that
15 -- getting that task accomplished.

16 The OSHA program is growing, and we're learning more
17 about the needs for employee safety in the workplace each day.
18 As high tech. measures are applied more and more in the
19 workplace, our current safety orders must be reviewed and
20 interpreted in terms of their adequacies to protect employees
21 once these measures are placed into use.

22 I believe that the future of OSHA is challenging and
23 exciting, and I'd like to be a part of it. I believe my
24 experience over the past four years serving on the Board should
25 qualify me for that task.

26 CHAIRMAN ROBERTI: Thank you, Mr. Harrington.

27 Are there any questions? Senator Mello.
28

1 SENATOR MELLO: I'd just like to find out a little bit
2 about how you feel about Cal-OSHA.

3 Let me just preliminarily point out, the Governor
4 suspended the program. It took an initiative of the people to
5 get it back on the books, which was voted in.

6 California has the highest of the 50 states incident of
7 worker injuries. I think that figure is maybe one or two years
8 old, but we rank right up there. I think they rate them on
9 number of injury accidents per 10,000 workers. I know we're
10 right up at the top.

11 There's really a need for a worker safety program. It
12 seems like you're being asked, from the administration's point of
13 view, to sort of be like the caretaker of the Titanic because I
14 don't think there's the commitment from the administration to
15 really go out and do the job as Cal-OSHA was intended to do.

16 Leaving it up to the federal government, the number of
17 inspections, the number of staffing, we witnessed that over a
18 period of time.

19 I'd just like to know about your own personal
20 commitment. Do you have a personal commitment to really go out
21 and try to make Cal-OSHA be responsive to the needs of the people
22 as set forth in its reason for being formed? Or do you look at
23 your role as not rocking the boat, sort of being there to serve
24 as a so-called caretaker in the program?

25 MR. HARRINGTON: It's certainly not as a caretaker.

26 SENATOR MELLO: Could you speak a little closer to the
27 mike.
28

1 MR. HARRINGTON: Certainly not as a caretaker. And I'm
2 not opposed to rocking the boat at times when it's necessary.

3 I believe that the -- from our position on the Appeals
4 Board, our job was to handle cases that come before us as a
5 result of the application of the program. The Division goes out
6 and enforces the program to ensure employee safety.

7 If an employer is operating a business or conducting a
8 business that jeopardizes the safety of employees, then they cite
9 him for it.

10 Our question, the question that comes before us is based
11 on the appeal of the employer. If the employer feels that his
12 safety program was conducted proper and appropriately, then he's
13 entitled to appeal and to present evidence that he is operating a
14 good, safe program. We decide on that.

15 We, from our position, we're not, I guess, in a position
16 to say whether or not the program exists.

17 From a personal point of view, I believe in employee
18 safety. And I believe in the approach that was -- given the
19 circumstances, given the responsibility, and I guess given the
20 projections, I believe in the approach that was taken by the
21 Governor, in that the -- from what we were told and what we read,
22 he was confronted with a deficit in the budget. And as a
23 manager, he had the responsibility, I guess, an administrator, to
24 bring that deficit down, to cut back on some operations, and to
25 enable us to have a balanced budget.

26 I guess you look from a manager's point of view, you
27 look at those programs where, if you were to eliminate them, it
28

1 would do the least harm. The federal government by federal law
2 has the responsibility for ensuring employee safety. The State
3 of California administers that program on a contract basis, I
4 guess, with the federal government. But if you ended the
5 contract, the federal government had the responsibility and the
6 obligation to come in and administer an employee safety program.

7 The question, I think, that surfaced out of all of that
8 was whether or not the federal government could administer a
9 program as good as the one that California was administering
10 under that contract. And that was the issue.

11 I -- we were not involved in making that determination.
12 I suppose as a citizen, I think, if it was necessary to end the
13 program, end California's involvement in the program, then I
14 would want the federal government to administer something at
15 least as good as what we were giving up.

16 SENATOR MELLO: I think if, you know, we did have a
17 budget problem, but wiping out a whole program 100 percent, you'd
18 think that if the Governor wanted to be fair across the board,
19 Cal-OSHA would have been reduced a certain percentage, therefore
20 all programs would have gotten the same treatment.

21 But the fact that he picked that out for a total
22 elimination shows me, at least, his lack of commitment to a
23 program run by the State of California.

24 I think if you look at the record, under the federal
25 operation of federal OSHA, they've had far less inspections, far
26 less programs here in the field. There's no doubt in my mind
27 that the federal program lacks a tremendous amount.

1 But I think from your position, sitting on the Board,
2 I'm sure you do get a chance to evaluate whether or not the
3 system is responding properly or not, or whether it's not. I
4 think that's what I want to hear from you.

5 From your role, do you think the system in California is
6 working or not?

7 MR. HARRINGTON: Oh, yes. The answer is definitely yes.

8 I think, you know, just from the premise of the program
9 itself, that's to ensure employee safety in the workplace, and
10 when the Division that has the enforcement responsibility goes
11 out to make an inspection, they're looking at the way a business
12 is conducted to determine whether or not that business guarantees
13 the employee's safety there.

14 If it doesn't, then --

15 SENATOR MELLO: Am I correct in the statement I made
16 earlier about California having the highest or one of the highest
17 injury work record of any state in the Union? If it's working,
18 then how come we're so high in our accidents?

19 MR. HARRINGTON: I'm not -- being a large state, it's
20 possible that we are up there at that high figure, but I'm not
21 sure. I haven't made any kind of comparison like that.

22 We do get reports that are issued by the Department of
23 Industrial Relations about injuries in the workplace, but they're
24 not comparative reports to relate to what's happening in other
25 states.

26 SENATOR MELLO: Have you read any legislation through
27 the Legislature that you see as deficiencies now under the
28 operation of Cal-OSHA or not?

1 MR. HARRINGTON: I'm sorry, Senator?

2 SENATOR MELLO: Have you, as a member, urged either your
3 Board or the administration or the Legislature to adopt or
4 introduce any legislation that you feel is needed in helping to
5 assist in your work better?

6 MR. HARRINGTON: In our meetings from time to time when
7 bills are introduced by Legislators, we get a chance to review
8 them, to react to them, to make comments on them. And as a
9 result of that, I guess, we do state preferences as to what laws
10 should be added to the books to make the program more effective.

11 I have a particular concern about the way the program's
12 applied to governmental agencies. I'm -- and my fellow Board
13 members know this, that I would like to ensure that once a
14 governmental agency is cited for violating a particular safety
15 order, that that process of appeal be carried out to the point
16 where that violation is either ended, done away with, abated, or
17 some other action is taken.

18 Right now, I think there is sort of a gap in the process
19 of handling appeals that are applied for by governmental agencies
20 once they're cited.

21 SENATOR MELLO: Do you have any statistics on the number
22 of fines or penalties that have been levied by you or the Board
23 against employers for hazards in violation of the Occupational
24 Safety Health Act?

25 MR. HARRINGTON: Do we have statistics, yes, we do, yes.

26 SENATOR MELLO: Do you recall just what they are?

27 MR. HARRINGTON: Offhand, no.
28

1 SENATOR MELLO: Would you say that one-third of those
2 that come before your Board are given a fine or a penalty, or 10
3 percent, or 1 percent?

4 MR. HARRINGTON: Well, the penalties are based on the
5 type of citation that the employer is alleged to have violated.
6 If it's a serious violation, then the citation will include a
7 penalty, a monetary penalty, to get the employer's attention, to
8 ensure that the situation is corrected, et cetera.

9 Sometimes those penalties are insufficient from our
10 point of view. This happens occasionally, and we have the option
11 then of increasing the penalties. There are other times when we
12 feel that the measures taken by the Division to bring about an
13 abatement of the violation is sufficient, and in those cases we
14 will reduce the penalty. We do have that option.

15 SENATOR MELLO: Do you know how much money in fines have
16 been collected?

17 MR. HARRINGTON: Over a period of --

18 SENATOR MELLO: Say one year, two years.

19 I said collected, because a lot of times we cite
20 somebody, levy a fine or penalty, but they settle it, and they
21 compromise, and they wipe it out, and they don't collect
22 anything.

23 I'm asking you how much money has been collected in
24 fines since you've been on the Board?

25 MR. HARRINGTON: Well, we -- the Board doesn't really
26 get into that part of it. The Board merely determines what the
27 penalty's going to be. And then, it's up to the Department of
28 Industrial Relations then to collect the penalty.

1 Once we make that determination as to what the penalty
2 is, then that's the amount that's supposed to be collected for
3 that particular case.

4 SENATOR MELLO: So you don't know how much is being
5 collected, though?

6 MR. HARRINGTON: In a total amount, no, sir, I don't.

7 SENATOR MELLO: Thank you.

8 CHAIRMAN ROBERTI: Senator Petris.

9 SENATOR PETRIS: Are there any labor union members on
10 the Board?

11 MR. HARRINGTON: Yes, sir. Mike Monegan represents
12 labor on the Board.

13 SENATOR PETRIS: Which craft or which union?

14 MR. HARRINGTON: I believe Mike was with the -- he's a
15 former airline pilot, and I believe he was involved with the
16 airline pilots.

17 SENATOR PETRIS: Airline safety?

18 MR. HARRINGTON: Yes.

19 SENATOR PETRIS: I understand that in 1987, now, that
20 was kind of a confusing year because of the Governor's move to
21 wipe out the agency, but from July 1 to the end of December, the
22 last half of 1987, 80 percent of the cases were either dismissed
23 or settled. And a large percentage of those were willful. They
24 were charges of criminal or willful misconduct in disregard of
25 safety.

26 How do you account for that?

27 MR. HARRINGTON: Well --
28

1 SENATOR PETRIS: It seems to me like an awfully high
2 number.

3 MR. HARRINGTON: If the cases -- the cases only come to
4 the Appeals Board if there's an appeal made by the employer. And
5 if they came to us, then we -- our process is to schedule a
6 hearing with an ALJ to hear the case from both sides, the
7 employer's side and the Division's side.

8 It is possible that the Division, in carrying out its
9 responsibilities to enforce the program, may cite an employer for
10 a violation. And from the point of view of the safety order who
11 issues the citation, if that's a willful or a serious violation,
12 then he will state so or she will state so on the citation.

13 It's possible that these problems, these issues, and the
14 violations can be worked out before the employer exercises his or
15 her rights to appeal the citation. But we never get -- if it's
16 worked out before the employer exercises the right to appeal,
17 then we have no knowledge of that.

18 SENATOR PETRIS: Don't they come before you to show good
19 cause? Aren't you supposed to approve or reject a settlement or
20 a dismissal?

21 MR. HARRINGTON: Settlements, no.

22 SENATOR PETRIS: I thought your regulations required --

23 MR. HARRINGTON: There are times when the -- when there
24 are violations that are worked out between the Division and an
25 employer after an appeal has been submitted by the employer, but
26 before the appeal is actually heard, the Division may, in working
27 with the employer, work out some kind of agreement.

1 SENATOR PETRIS: And you don't have anything to do with
2 that?

3 MR. HARRINGTON: No, sir. We just cut the order that
4 the agrement's been made.

5 SENATOR PETRIS: At that stage it doesn't come before
6 you for approval of the settlement or dismissal?

7 MR. HARRINGTON: Not for approval. It comes before us
8 as information, to let us know that the issue is no longer on
9 appeal, it's been settled, and so we cut an order to clear the
10 record.

11 SENATOR PETRIS: Then looking at what happens down
12 below, do you have an opinion on the high percentage for that one
13 half-year?

14 MR. HARRINGTON: I'm not sure what it is.

15 SENATOR PETRIS: You don't know the circumstances?

16 MR. HARRINGTON: I'm not sure how high the percentage
17 was or wasn't. I haven't seen any statistics on that.

18 SENATOR PETRIS: Well, Assemblyman Floyd has a bill to
19 limit the authority to do that once its gone past a certain
20 point. He feels that a lot of these are improperly being
21 dismissed, and they shouldn't be, and he wants to limit the
22 authority there.

23 Do you have any opinion on that?

24 MR. HARRINGTON: If they are being improperly dismissed,
25 then I think Senator [sic] Floyd's appropriate in issuing or
26 presenting legislation to correct that situation.

27
28

1 SENATOR PETRIS: There seems to be a conflict situation
2 between the Appeals Board and the Department. You serve at the
3 appellate level, kind of overseeing these cases and then making
4 decisions on them. But your budget is subject to review by that
5 Department.

6 Do you feel comfortable with that?

7 MR. HARRINGTON: I'm one that believes in the integrity
8 of the Board to carry out its responsibility and to ensure that
9 that responsibility isn't compromised in any way.

10 So, you know, if something --

11 SENATOR PETRIS: Wouldn't that be better assured if that
12 were divorced --

13 MR. HARRINGTON: If you could guarantee that, if they
14 were completely separated; that's true.

15 SENATOR PETRIS: Would you support a move in that
16 direction to remove the Department's budgetary control over the
17 Appeals Board?

18 MR. HARRINGTON: The Appeals Board as it's structured
19 has limited staff. And having been involved with the preparation
20 of budgets and managing the accounting of expenditures, et
21 cetera, it's a costly operation.

22 I believe our administrative costs from the Department
23 of Industrial Relations is relative low. If we had to -- it's
24 compared to what we would have to set up on the Board to handle
25 that type of work ourselves. We'd have to hire all sorts of
26 staff, different classifications, et cetera.

27
28

1 I believe what we have with the Department now is
2 working, but I think we also have to guard against being --
3 having our position, our program, compromised. I mean, you have
4 to -- I think in order for the Appeals Board to be effective, we
5 have to avoid any possibility of having an employer who submits
6 appeals to us say that, "Well, it's no use in submitting the
7 appeal because the Division issued the citation, and you've got
8 the Appeals Board there in the same Department, they're going to
9 go along with the Division."

10 I think we have to guard that. So far we have.

11 SENATOR PETRIS: Avoid that perception.

12 MR. HARRINGTON: Yes, sir.

13 SENATOR PETRIS: I'm concerned, along with everybody
14 else, about the cancer problem. It just seems to be getting
15 worse and worse instead of better.

16 Now, we enacted a law way back in 1976 that's called the
17 Occupational Carcinogens Control Act of 1976. Now, that Act
18 requires that violations of standards respecting the use of a
19 carcinogen be classified as serious. So, in the statute we
20 require that standards be developed, and any violation of those
21 standards is labeled as serious.

22 Now, there was a decision by the Board, the Capri
23 Manufacturing case. I don't know if you were on the Board at the
24 time.

25 MR. HARRINGTON: I was.

26 SENATOR PETRIS: It said only those parts of the
27 carcinogen standards which concerned actual use of the carcinogen
28

1 could be cited as serious, and the other parts of the standards
2 would not fall into the serious category.

3 Now, the other parts happen to be medical examinations
4 provided by the employer, training for exposed employees, air
5 samples, monitoring the plant. They could only be cited as
6 general violations.

7 It doesn't seem to me that that was the intent of the
8 statute. Why was that limitation imposed on the --

9 MR. HARRINGTON: The decision in Capri was really based
10 on what we thought was the interpretation of the Legislature.

11 SENATOR PETRIS: Interpretation of what?

12 MR. HARRINGTON: Of the Legislature in enacting that
13 Occupational Carcinogen Control Act.

14 SENATOR PETRIS: Don't you think it should apply across
15 the board to all the standards under that?

16 MR. HARRINGTON: From the way we interpreted it, we
17 even, I think, limited the ability of the Appeals Board to
18 determine what the penalties were. From the wording in the law
19 itself, it said that if the violation is serious, there will be a
20 minimum of a \$500 penalty, in certain cases a \$1,000 in certain
21 cases.

22 Whereas, under the Labor Code in dealing with serious
23 violations under other types of problems, the Board has the
24 authority to determine what the level of the penalty should be.

25 But under that Occupational Carcinogens Control Act, it
26 was stated. So, we limited our control there, and if the
27 violation did involve a use, then it was classified as serious.
28

1 If it didn't involve a use, no employee's life was in jeopardy,
2 or the employee was not subject to serious harm.

3 SENATOR PETRIS: You wouldn't know that if you stopped
4 taking medical exams, would you? The employer wouldn't know it.
5 Part of that is periodic medical examinations.

6 Now, you get into this carcinogen problem, the alarms
7 don't start ringing right away. You have to detect. That's why
8 they have the exams.

9 Wouldn't that be jeopardizing the health and safety, if
10 not the life, of the employee if medical exams are not given?

11 MR. HARRINGTON: No, not necessarily. Let me just put
12 it that way.

13 If the employee's exposed to the carcinogen, then of
14 course his life would be in jeopardy, or serious harm could bring
15 about.

16 The fact that he doesn't -- that he's not given a
17 medical examination doesn't necessarily make that determination.
18 It may be that he's never exposed to such a carcinogen that would
19 harm him, so you fail to give him a medical examination --

20 SENATOR PETRIS: As I understand it, the failure to give
21 an exam to an employee who has been exposed is not considered
22 serious under that decision.

23 MR. HARRINGTON: The exposure itself, I think, precedes
24 the examination requirement. If the employee is exposed, that is
25 a violation. That's a serious violation. And then that
26 violation can take on various classifications.

27
28

1 SENATOR PETRIS: Is it accurate to say that the Capri
2 decision reduces that kind of violation to a general one?

3 MR. HARRINGTON: No.

4 SENATOR PETRIS: No exam after exposure, general
5 violation, not a serious violation.

6 MR. HARRINGTON: Well, if there's exposure, then it's a
7 serious violation.

8 SENATOR PETRIS: That's not changed by the Capri --

9 MR. HARRINGTON: No, sir, it's not. It's not changed
10 whatsoever.

11 SENATOR PETRIS: Well, apparently there's some conflict
12 on interpretation there.

13 If that's the case, should we change the law?

14 MR. HARRINGTON: Yes, yes. Exposure is a serious
15 violation, without question.

16 SENATOR PETRIS: Do you think the law --

17 MR. HARRINGTON: I would advocate that we would change
18 our Capri decision. The law is --

19 SENATOR PETRIS: Do you feel that was a correct
20 interpretation of the law? So the weakness is in the law?

21 MR. HARRINGTON: We interpreted it the way --

22 SENATOR PETRIS: Do you think we should beef it up?
23 Should we strengthen the law in that area?

24 MR. HARRINGTON: I think it's pretty strong now,
25 Senator, I really do. But, I wouldn't rule out that it couldn't
26 be made -- improved upon.

27
28

1 In this day and age, with high tech. measures coming
2 into the workplace, employees are subject to different types of
3 injuries, cumulative type injuries, things that we never thought
4 about in the past, so it's a challenge to us.

5 SENATOR PETRIS: Thank you, Mr. Harrington.

6 SENATOR CRAVEN: Thank you.

7 Is there any other comment from Members?

8 Does anyone in the audience wish to make a comment?

9 There appears to be none.

10 SENATOR BEVERLY: Move the approval of the nomination.

11 SENATOR CRAVEN: Senator Beverly moves. Call the roll.

12 SECRETARY WEBB: Senator Beverly.

13 SENATOR BEVERLY: Aye.

14 SECRETARY WEBB: Senator Mello.

15 SENATOR MELLO: Aye.

16 SECRETARY WEBB: Senator Petris.

17 SENATOR PETRIS: Aye.

18 SECRETARY WEBB: Senator Craven.

19 SENATOR CRAVEN: Aye.

20 SECRETARY WEBB: Senator Roberti.

21 SENATOR CRAVEN: Keep the roll open for Senator Roberti.

22 The vote is now four to zero, and Senator Roberti, I think, would
23 like to be added to the roll call.

24
25
26
27
28

1 (Pursuant to Senate Rule 28.7, Chairman
2 Roberti's aye vote was added, and the
3 final Committee action on the appointment
4 of Mr. Harrington was 5-0, confirmation
5 recommended to the Floor.)

6
7 (Thereupon this portion of the Rules
8 Committee hearing was terminated at
9 approximately 3:25 P.M.)

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25
26 Evelyn Mizak
27 Shorthand Reporter
28

APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

THERESA A. SPEAKE, Director
Department of Economic Opportunity

SENATOR HERSCHEL ROSENTHAL, Chairman
Senate Energy and Public Utilities Committee

LLOYD THRONE, Director
Redwood Community Action Agency
Vice President, Cal-Neva Association

CALLIE I. CARNEY, Executive Director
Sacramento Women's Civic Improvement Club

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P R O C E E D I N G S

--oo0oo--

SENATOR CRAVEN: Theresa A. Speake, Director of the Department of Economic Opportunity, who is an appointee of the Governor appearing today.

Please have a seat. We will ask you, Ms. Speake, as we do all of the Governor's appointees, why do you feel that you are qualified for this particular assignment?

MS. SPEAKE: Good afternoon.

Basically, my position is that I believe that I am qualified for the job, and I want to continue to serve as the Director of the Department because I have many years of experience in the field of developing, managing and directing these types of programs.

The programs that I have worked with in the past have included working with small and minority businesses as a private business person, and also five years as the Deputy Director for the Department, in charge of the Programs Unit.

I also have begun, both as the Deputy Director and the Director, a number of programs which I would like to have the opportunity to complete. Some of these program involve resource development, which I think is very critical to the State and to the continuance of these programs. Another development is better communications and working relations with the networks, and those are our contractors who are what I call the front line folks, the people that are out there actually getting the work done. Those are the things that I would like to continue to be able to do as the Director and, if confirmed, I would be continuing to do that.

1 One of the areas that I would like to stress very
2 strongly right now as far as resource development goes is that I
3 have been doing a lot of research and coordinating with other
4 department directors.

5 One of the areas of great concern to the State of
6 California and to, I think, our network is the fact that the
7 current allocation at the federal level for the Department of
8 Energy funds as they are distributed to states seems to be
9 somewhat biased towards the Northeastern states, and this year
10 the reauthorization at the federal level is taking place, and we
11 are in the process of submitting input to the committee -- the
12 Subcommittee on Energy in order to address that issue. If we are
13 able and are successful to get the allocation looked at,
14 reviewed, and possibly changed, California would stand to benefit
15 a substantial amount of funds for the low-income weatherization
16 programs of this State.

17 SENATOR CRAVEN: Let me just ask you, I'm presuming in
18 this last quest that you have delineated you do that through the
19 Congressional delegation?

20 MS. SPEAKE: Yes, we do.

21 SENATOR CRAVEN: What kind of a rapport do you have with
22 the delegation?

23 MS. SPEAKE: Well, we have communicated with them. I
24 was in communication with Congressman Moorhead's staff, who is
25 the chair of that particular committee. They have requested that
26 I get something to them by July the 10th, which is very critical
27 timing, and we are putting together some information not only on
28

1 why we feel the formula is inequitable, but what should be done
2 about it. And that is the greater job.

3 You know, it's always that way. You can always say why
4 it doesn't work, but how you would make it work is more work.

5 SENATOR CRAVEN: Do you have people in the field?

6 MS. SPEAKE: When you say in the field, are you talking
7 about staff in the field?

8 SENATOR CRAVEN: Yes, outside the --

9 MS. SPEAKE: The headquarters --

10 SENATOR CRAVEN: -- capital milieu.

11 MS. SPEAKE: No, we do not.

12 SENATOR CRAVEN: Are you, in your judgment, presently
13 staffed to the degree that you think is appropriate?

14 MS. SPEAKE: Yes, I believe so. We have reorganized the
15 Department, and we've done some coordination of activities where
16 the staffing is now become -- has now become generalists rather
17 than specialists, which in my view has benefited the networks,
18 the contractors that we work with, because that way we can find
19 out their total operation rather than focusing narrowly on just
20 the monies that we put in to those type of programs.

21 SENATOR CRAVEN: What is your budget?

22 MS. SPEAKE: Our budget right now is -- for this year we
23 have a budget of -- I'm trying to think of the three different
24 programs we administer -- approximately 150 million.

25 SENATOR CRAVEN: For all three of the programs?

26 MS. SPEAKE: Right, not just us. We only get 10 percent
27 of that to operate the programs, less than 10 percent of that
28 really.

1 SENATOR CRAVEN: There is some, I suppose, joining or
2 overlap in the field of affirmative action as it relates to your
3 programming; is that not correct?

4 MS. SPEAKE: Basically yes, because the people that we
5 serve are low-income people.

6 SENATOR CRAVEN: Yes.

7 MS. SPEAKE: So that that would be the approach in
8 affirmative action, and that is to improve the lot of these
9 people, to provide economic opportunity for them by training,
10 jobs.

11 SENATOR CRAVEN: So, you have basically an outreach-type
12 operation which concentrates on those people; is that correct?

13 MS. SPEAKE: That's correct, absolutely.

14 SENATOR CRAVEN: So it is kind of moving in that venue.

15 MS. SPEAKE: And all of our contracts do require that
16 our contractors, if they have X amount of employees and a certain
17 size of budget, have a written affirmative action plan for their
18 employees also. So, it goes down to the contractors themselves
19 also.

20 SENATOR CRAVEN: Very good.

21 Senator Petris has some questions, Ms. Speake.

22 MS. Yes, sir.

23 SENATOR PETRIS: I have them on two or three categories.
24 The first is unallocated funds.

25 Every year, the Department, the agency, gets back funds
26 that haven't been expended by the grantees that come back to you.
27 I notice in tracing some of the allocations, actually I think
28

1 they're very good, especially the ones helping farmworkers, but
2 there doesn't seem to be any formal process in place to guide
3 you, as a Director, and groups that would be interested in
4 applying because there's never enough money to go around and
5 they're always competing for a little more money for this or
6 that.

7 Assemblyman Hauser has a bill, I think, establishing
8 some kind of procedure.

9 It doesn't seem to me to be wise, from an administrative
10 point of view, to leave it to the discretion of the Director each
11 year, even though I happen to agree with the allocations you've
12 made that have come to my attention.

13 You've established a manual, but that's not as strong as
14 regulations or statute. Can you comment on that problem?

15 MS. SPEAKE: One of the things that I would like to go
16 back on is the statement that there are no procedures in place or
17 regulations that direct how the carry-over or the recaptured
18 funds will be distributed.

19 The budget bill actually does have some language in it,
20 and the language specifically says that any recaptured funds will
21 be distributed to the contractors. So, it does limit it to the
22 existing network of providers. So, anybody who is currently in
23 the system, according to the budget bill language for this year,
24 and in the past also, does require that those funds be
25 reallocated to those contractors. So, it does stay within the
26 community of the contractors that we now contract with.

27
28

1 SENATOR PETRIS: Does that mean they all get a piece of
2 it?

3 MS. SPEAKE: It doesn't have a formula; you're correct,
4 it does not provide a formula on how.

5 SENATOR PETRIS: You could give it all to one of the
6 contractors.

7 MS. SPEAKE: It could go all; it could go to some. And
8 basically, the procedure that the Department has used -- you are
9 correct in that it is not in a written form, and it is not
10 regulated -- has been to look at the performance of contracts in
11 the prior year. So, the Department would sit down, would look at
12 the performance of contractors as -- say, if you performed let's
13 just use 90 percent of your contract, and you've expended --
14 you've reached 90 percent of your goals, and you've expended 90
15 percent of your money. You are then entitled to participate in
16 the redistribution of these funds.

17 So, performance was a key factor, but it wasn't, as you
18 say, spelled out and written as to exactly what the performance
19 factors were.

20 SENATOR PETRIS: Does the budget language limit it just
21 to the contractors, or does it give them priority?

22 MS. SPEAKE: It just says it must be returned to the
23 contractor -- must be put back into local assistance with the
24 contractors, something like that. I don't have the language
25 before me right now.

26 SENATOR PETRIS: What are your priorities? Let's say
27 there's usually millions of dollars returned. If that happens
28

again, what are your general notions of where this thing should go, apart from the efficiency of a contract, by subject matter?

MS. SPEAKE: I have to say that the contractors have been very good about expending their funds in the last several years. They have -- we have worked very closely with them in identifying their priorities and keeping on track and expending their funds. So every year, we've had less and less returned funds, and less and less funds to have to reallocate.

So, those funds have become less, yet there stills needs to be a process, you are correct, for reallocating those funds.

We have agreed this year that we are going to initiate a task force that will address several items, and one of those is the recapture and reallocation of funds. We need some input from the people affected themselves: how would you feel about these guides.

SENATOR PETRIS: When is that coming out?

MS. SPEAKE: We've already gone out with the request for members to sign up and join to serve on the task force, and our first task force will take place, I believe, it is July 13th in conjunction with our commission meeting with our DEO Advisory Commission.

SENATOR PETRIS: How is the Hauser bill going to affect this?

MS. SPEAKE: Okay, the Hauser bill right now would require that the Department go to regulations, emergency regulations.

1 We are hopeful that the process that we are taking place
2 through the task force will indicate to the Assemblyman that the
3 Department is sincere about its efforts to incorporate the people
4 that are affected: the commission, the contractors, and all of
5 the various parties that do receive funding from the Department.
6 We're hoping that that will eliminate the need to go to
7 regulations because we believe that the regulatory process
8 sometimes takes more away than it gives. I think the flexibility
9 may be desired by those people once they realize that the task
10 force is working.

11 SENATOR PETRIS: Now, the overall mission of the DEO is
12 to help the poor; isn't it?

13 MS. SPEAKE: Correct.

14 SENATOR PETRIS: Of which we have about 4 million in the
15 State of California.

16 MS. SPEAKE: Well, there's estimates range from, you
17 know, 2½ million to, depending on -- one of the problems we have
18 is we can't get a handle on some of the poor, i.e., the migrants.
19 The migrant or seasonal farmworker, where do you count them? The
20 homeless, how do you count them? So, that's really been a big
21 problem.

22 And along that line, the census, I believe, this year is
23 going to be real critical, because if we can get a good census
24 count, the Department is committed to doing some outreach, very
25 targeted outreach, on the census to ensure that we capture and
26 identify those low-income people who generally are the ones that
27 aren't counted, because they're here in California. We need to
28

1 serve them, but we're not going to get our fair share from the
2 federal government unless we count them.

3 SENATOR PETRIS: We have that fight every ten years with
4 the federal government, which sometimes seems very reluctant to
5 reach out and find everybody.

6 With respect to that overall mission, and carrying out
7 the policies of the agency as expressed in the statute, what is
8 your vision of the best way for us to go in the priorities?

9 MS. SPEAKE: Serving the low-income population of the
10 State of California, I think, is a job for all of us. I don't
11 think it can be limited to the Department of Economic
12 Opportunity.

13 And because of that, I have reached out and communicated
14 with other directors in other departments who, in some instances,
15 I wouldn't call it a duplication, but they're serving the same
16 groups of people: veterans are poor; seniors are poor; people in
17 the Social Services Department. So, I have communicated, and as
18 a matter of fact, have received approval to set up a task force
19 of department directors to talk about how we can better
20 coordinate the provision of those services to the low-income
21 poor. I can't do it alone through my Department.

22 SENATOR PETRIS: Are these informal talks by telephone
23 or are they public meetings?

24 MS. SPEAKE: I've actually met with department directors
25 on an individual basis, and I've targeted specific areas that I
26 believe we can work together on. And I've had some very positive
27 receptions.
28

1 SENATOR PETRIS: These are outside your own shop?

2 MS. SPEAKE: Right.

3 SENATOR PETRIS: So, you have to kind of persuade them.
4 You don't have any hold on them.

5 MS. SPEAKE: I don't have any hold, but I have -- as I
6 say, I have if you want to call it blessing, I have a letter from
7 the Governor advising me that he is encouraging me to do this and
8 will be communicating with those directors to work with me. So,
9 it's an informal task force, but it is -- it does have a little
10 more formality than my just going to them on my own.

11 SENATOR PETRIS: Give us an example of an agency that's
12 been persuaded to improve its services to the poor.

13 MS. SPEAKE: Well, I'm not sure about improve their
14 services to the poor, but to coordinate their services with our
15 Department, is one of the areas I think that I can address.

16 The Housing and Community Development has received
17 several million dollars in Petroleum Violation Escrow Account
18 funds that are targeted for rehabilitation of low-income housing.
19 They do not have in place the process. They would have to go to
20 a regulatory process and design a whole system to do that.

21 My discussions with Christine Reed are that if she would
22 enter into an interagency agreement with my Department, we would
23 apply for those dollars to our contracts, which are for
24 weatherizing low-income homes, and then be able to piggy-back
25 repair dollars first, and then do the weatherization. Because,
26 we're running into the very poor quality stock housing now that
27 we cannot weatherize because there's not sufficient money to
28

1 repair in our contracts before you can weatherize. So, that's an
2 example.

3 SENATOR PETRIS: Have you prodded the Housing and
4 Finance people as well?

5 MS. SPEAKE: I've talked to Carney Hodge and --

6 SENATOR PETRIS: They don't mess around with the poor
7 very much.

8 MS. SPEAKE: Yes, you're correct, but they do have some
9 low-income programs, and I think they need --

10 SENATOR PETRIS: I know, but they're not getting the
11 money. You know, that's my legislation they're supposed to be
12 working on, but they ain't going there.

13 Tell us some more about that part of it.

14 MS. SPEAKE: Well, I was going to say, I haven't been
15 successful in every instance.

16 SENATOR PETRIS: Give us one instance.

17 MS. SPEAKE: I'm persistent, and I want to continue to
18 work with these departments. And I make a commitment that I will
19 do that, because I think there are resources out there that we
20 can draw into serving the poor, low-income.

21 SENATOR PETRIS: What's the inducement, other than the
22 letter from the Governor, that you can offer?

23 MS. SPEAKE: My sincerity, my belief in that together
24 the State can have a greater impact on what we do. I don't have
25 an inducement other than that.

26 SENATOR PETRIS: Rehabilitation was mentioned earlier.
27 Are you involved at all in the downtown hotel rehabilitation, the
28 old places that might also need some weatherization?

1 MS. SPEAKE: I have personally met with Ann Rudin, the
2 Mayor, and I suggested to her that we form some kind of a
3 relationship, a coordinated operation, with my local contractors.
4 I personally would not be able to, but we give the money to the
5 local contractor, and we happen to have some of them here today.
6 And it's been expressed by these local contractors that they're
7 very interested in piggy-backing whatever is being done going
8 into the low-income hotel and putting in the weatherization,
9 because the dollars are there. So, but --

10 SENATOR PETRIS: You can provide the money for that?

11 MS. SPEAKE: We can provide the weatherization dollars.

12 SENATOR PETRIS: Is that part of your budget, or is that
13 recaptured money?

14 MS. SPEAKE: No, that was part of the budget. And it
15 could be part of recapture.

16 One of the things that this task force could address is
17 that when those dollars are recaptured, we could look at
18 projects. We could look at something where we can actually put
19 the recaptured money and have a greater impact, rather than
20 distributing it, you know, 10 percent here or 5 percent there and
21 not having as great an impact.

22 SENATOR PETRIS: I know of only one downtown hotel in
23 Sacramento that's done that. It's an excellent project, with
24 private contractors participating, shaving their profits
25 voluntarily to help out and so forth; local agencies providing
26 money, State.

27 Are there any others, more than one, in Sacramento?
28

1 MS. SPEAKE: Well, there are projects going on through
2 the Sacramento Housing and Redevelopment. And those are the
3 people that we -- Mayor Rudin referred me to that we need to sit
4 down and talk to about what projects are on the drawing board,
5 and like, is it this year or next year, and then begin the
6 planning of how those funds can be allocated.

7 SENATOR PETRIS: How about other cities?

8 MS. SPEAKE: We have suggested to our contractors that
9 they do that in -- again, as I say, the contractors are there,
10 and we have suggested that they communicated in their local
11 communities.

12 We did work in San Mateo on a project where we put in --
13 it was a major joint venture between a lot of parties. And it
14 was right at the bridge -- what's the name of the bridge; not the
15 San Mateo Bridge -- but anyway, they did a whole section of
16 remodeling --

17 SENATOR PETRIS: South Bay?

18 MS. SPEAKE: Dumbarton Bridge, right.

19 We put in something like, oh, \$25,000 worth of
20 weatherization dollars. It wasn't a lot, but it was part of that
21 public-private partnership of a number of organizations to
22 rehabilitate that low-income project that's right at the end of
23 the Dumbarton Bridge there. That was last year.

24 SENATOR PETRIS: On the Palo Alto side?

25 MS. SPEAKE: I'd have to ask the contractors. I can't
26 remember which side. I don't know the Bay Area that well, but it
27 was there and it was done.

1 SENATOR PETRIS: Now, when you do the allocating, how do
2 you notify people, other than the contractors, or do you?

3 MS. SPEAKE: How do we notice --

4 SENATOR PETRIS: Do you have any public notice?

5 MS. SPEAKE: The public --

6 SENATOR PETRIS: There are people out there who are
7 interested and may want to come in support of a particular
8 contractor because of a job they've done that's been very
9 successful in that community.

10 What kind of notice goes out on these things?

11 MS. SPEAKE: We do not -- we have just initiated a
12 public information office. We had not had one until the last two
13 or three months.

14 We have what we call a grant document. It's a document
15 that we publish on a monthly basis, and we have a substantial
16 mailing that is -- that does go to not only the contractors, but
17 the elected officials, other private people, about the different
18 kinds of fundings that have been available, made available, for
19 these programs.

20 We do not have any kind of a public notice, though, like
21 published in the newspapers or something like that. We do
22 publish the hearings at which we then discuss the allocations.
23 And those are published in the newspapers. As a matter of fact,
24 we will be having a DOE State Plan hearing the 20th, I believe,
25 of this month here in Sacramento that will identify the agencies
26 and the dollars that are being distributed under the Department
27 of Energy weatherization dollars. So, that will be a public
28 hearing.

1 SENATOR PETRIS: Do you remember offhand if any energy
2 weatherization went into Oakland or Alameda County?

3 That's, admittedly, a parochial question, but it is of
4 some interest to me.

5 MS. SPEAKE: Yes, of course.

6 I can't give you the amount. I probably could, but I
7 have to tell you that I lost my glasses at lunch time, and I
8 cannot see to read. I might be able to have my staff come up and
9 give me the amount.

10 But the formula basically for weatherization dollars is
11 based on low-income population of the county; the heating and
12 cooling degree days in that area; and the cost of energy. That
13 formula is put into a computer, and it spits out an amount.

14 In Oakland, it's divided into two or three contractors
15 right now: you have Spectrum; you have the City of Oakland; and
16 you have Berkeley, I believe, are the three areas that have --
17 Alameda County has.

18 SENATOR PETRIS: Ongoing projects?

19 MS. SPEAKE: That have weatherization projects.

20 SENATOR PETRIS: We have a high percentage of
21 low-income, and a high percentage of seniors among the
22 low-income, and a high percentage of very old housing stock that
23 needs this kind of thing.

24 Well, that's probably enough for me. Maybe someone else
25 has a question.

26 Thank you very much.

27 MS. SPEAKE: Thank you.
28

1 SENATOR CRAVEN: Do Senator Mello or Senator Beverly
2 have any questions at this time? If not, I believe Senator
3 Rosenthal has some questions of Ms. Speake.

4 SENATOR ROSENTHAL: Mr. Chairman and Members, I'm here
5 because as Chairman of the Energy and Public Utilities Committee,
6 I've had a long-standing interest in the DEO program involving
7 low-income energy assistance.

8 In the last few years, I've been successful in securing
9 some federal funds for DEO programs, and I've also authored bills
10 to shape the way these funds are expended for low-income
11 assistance.

12 I believe that the Director, Speake, has the experience
13 and capability to manage DEO to the benefit of California's less
14 fortunate citizens. But in all candor, I have some serious
15 concerns about the way she has managed the Department to date. I
16 would just like to get some issues on the record and some
17 questions answered as part of the confirmation process.

18 It seems to me that Director Speake has a bold, personal
19 vision of where she wants to go with DEO. My concern is that she
20 often has moved too quickly without prior consultation with the
21 affected parties and the Legislature, and without sufficient
22 effort to seek compromise and consensus.

23 As a result, there is both legislation which I've
24 authored and budget control language pending that would narrow
25 her discretion.

26 In the past, my principle concern has been the lack of
27 fairness in the DEO process used to modify contract provisions
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1 which control the local expenditure of DEO energy assistance
2 funds. I'm satisfied that the Director is now dealing with that
3 problem different than what it was before, and I welcome her
4 comments on that one point.

5 MS. SPEAKE: Senator Rosenthal, I appreciate your
6 comments, and I know that we've spent a lot of time with your
7 staff and with the network, talking about these concerns. And I
8 think that's important.

9 And I think your introductory statement was probably
10 part of the concern I have about myself, and that is, I need to
11 slow down, even though it's a good idea. And I need to look at
12 see how it affects people before moving into that arena.

13 And I promise myself that I will do that, because I
14 think it's real important. As a contractor myself, and I have to
15 sit back and think, because I have been on the other side. I've
16 been a grantee, and I have been the recipient of rules and
17 regulations that may not -- I may not have had sufficient input
18 into, and I might have wanted to have some input into it.

19 So, I agree that we -- that I do need to and I will be
20 looking more to the task force process, to working together, to
21 bringing my ideas to a sounding board group even, because I do
22 have a lot of good ideas. I am trying to go for resources that
23 have maybe never been sought out before, things like this.

24 So, I do need to proceed cautiously, and I appreciate
25 your concern and your willingness to work with our office and to
26 work with me.

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1 SENATOR ROSENTHAL: One of the changes, the substantive
2 changes were made in contracts, which led some of the local
3 groups to sign the contracts under protest. Some compromises
4 have been made in this area as well, and I welcome your comments
5 on them.

6 MS. SPEAKE: The contracting process in 1980 -- well,
7 actually begins about the middle of the year prior, and our
8 contracts are issued on contract years, which is January to
9 December.

10 I was appointed on August 15th, and we were right into
11 the contracting process already. We had major changes in the
12 Department, staffing changes, and some of the discussions that
13 had taken place, and some of the feedback -- because we had had
14 meetings with the contractors and had gotten some input on what
15 changes we wanted to have into the contract. We had reached a
16 point where it was necessary to move with the contract, get it to
17 the Department of General Services to get it out timely. So, we
18 -- I and the Department -- omitted one step there, and that was
19 to go back to the network saying, "This is what we finally came
20 up with. Before we send it out, do you have any other
21 questions?" And there were some last-minute changes that were
22 included in that.

23 Again, the new process is that we have a policy and
24 procedures memorandum in place that was coordinated with the
25 network. It has a very defined time line: June 1st we sent the
26 notice out; by July 1st, you have your input; we draft up a
27 draft; we send it to you; you have another 30 days to respond; we
28

1 then send it to General Services. It's very, very detailed, and
2 it allows everybody the opportunity to know when things will
3 happen and how things will happen. So, that was our way of
4 handling that.

5 SENATOR ROSENTHAL: As you know, I authored an amendment
6 to the Utility Baseline Rate Program, which requires the PUC to
7 establish low-income rates for the needy households.

8 Now, I intended this low-income benefit to make up for
9 rate increases that will occur when the utility baseline is
10 modified.

11 I did not intend for the PUC's low-income rate to be
12 used as an excuse to lower DEO benefits received by the
13 low-income households.

14 It's come to my attention recently that the Department
15 may be considering disqualifying home energy assistance program
16 benefits for low-income households that receive the new PUC
17 low-income baseline rate. And if that's true, I consider that
18 intolerable and contrary to legislative intent.

19 If you'd like to comment.

20 MS. SPEAKE: Oh, I would definitely like to comment,
21 because the Department has no intention of doing that at all.

22 As a matter of fact, what we have an intention of doing
23 is working closely with the utility companies who are regulated
24 utility companies who've approached the Department to provide the
25 certification process in order to assure that we eliminate waste,
26 fraud and abuse through a self-certification process.

27 SENATOR ROSENTHAL: But the Department is not --
28

1 MS. SPEAKE: No.

2 SENATOR ROSENTHAL: -- planning to disqualify those
3 persons?

4 MS. SPEAKE: No, we are not.

5 SENATOR ROSENTHAL: Next, it's my understanding that you
6 have proposed the elimination of the toll-free lines which carry
7 calls to the DEO about the Home Energy Assistance Program.
8 That's certainly one way to avoid hearing about complaints.

9 I don't know if it's true or not, but if you would
10 comment on that.

11 MS. SPEAKE: The Department is currently looking at the
12 Home Energy Assistance Program and its operations because we've
13 had a number of concerns relayed to us by a number of Legislators
14 about the inability to get through on the 800 line, the slow
15 process for payment on the HEAP.

16 In looking at this process, the procedure has been that
17 we, the Department, has generally mailed out to the categorically
18 eligible low-income people of the state from the MEDS list that
19 is provided to us by the Department of Social Services, about a
20 million and a half applications in September. Those all start
21 coming into the Department, and we have a policy and operational
22 process right now to pay during the winter months.

23 What has happened is that we are trying to process
24 applications, like half a million to 600,000, in a very short
25 period of time, and it jams up the system, jams up the phones.
26 We don't get the turnaround time like we should.

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1 I am exploring the idea of having a year-round program
2 where it would ensure that the recipient doesn't have such a long
3 wait to get their check from the time the application arrives.
4 That would probably allow us not to have twenty 800 lines; we
5 could still have some, but we wouldn't need to have that cost.

6 Again, this is in the exploratory stage because we have
7 to look at how we can better provide the services to the
8 low-income person. That is our whole intent.

9 Again, in exploring the situation, we realize, and I
10 personally realize, there's going to be an education process with
11 the Legislature and with a lot of the people, the low-income
12 people out there, who are used to receiving that application by
13 September or October.

14 The methodology that I was hoping to use is that this is
15 not an energy crisis program. This is a write down program.
16 This is a payment that is made to your utility company. It
17 doesn't matter when it comes during the year. During the
18 interim, if you have a problem, you can go for your energy crisis
19 program.

20 So, it's a much bigger -- we cannot look at it just
21 separately. And I think that that is one of the things that I
22 want to be discussing with the task force, and I was wanting to
23 wait to come in and talk to you about that process, because it is
24 your legislation.

25 SENATOR ROSENTHAL: It's not only in regards to this
26 particular department, but I have concerns because I've been
27 aware of the similar kinds of problems in other of the
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1 departments concerning consumer affairs in which, you know,
2 somebody says, "We don't get any complaints," and I'd say, "Do
3 you have an 800 line?" Well, they don't have one. How are you
4 going to get complaints if you don't have those lines so that
5 people can make their complaints?

6 I would like to see what you come up with as a
7 substitute for the 800 lines.

8 MS. SPEAKE: We're hoping we don't have the complaints
9 if we can do it on a more timely basis.

10 In other words, we can do it around the middle of
11 November and still have a very short period of turnaround time as
12 long as the low-income persons are made aware that the payment
13 they're eligible for jumps to January, February or March. I
14 think that's the important thing.

15 SENATOR ROSENTHAL: As you know, a few years ago I
16 carried legislation that expanded eligibility for your
17 Department's, DEO's, low-income assistance so the working poor
18 could also receive help. The only practical way to reach the
19 working poor is to have community agencies perform some outreach
20 service.

21 My understanding is that DEO plans to eliminate the use
22 of outreach agencies to get applications to the public. That
23 would have the effect of excluding the working poor, in my
24 opinion.

25 Is this proposal true, and if so, what's the rationale?

26 MS. SPEAKE: No, as a matter of fact, it isn't true.
27 And one of the things that I'm very excited about with our
28

1 working relationship that we're developing with PG&E under the
2 utility program is, they will be our outreach. In other words,
3 when they mail their little notice in every utility bill that
4 goes out, they're going to be reaching those working poor that we
5 have generally really been, unfortunately, unable to reach.

6 So, I think that we -- it's going to be a very good
7 marriage between the utility companies, so that we can then reach
8 the working poor that we don't reach off that MEDS tape.

9 SENATOR ROSENTHAL: And finally, I just want to
10 reiterate that I believe that you have the experience and the
11 capability to manage that Department for the benefit of
12 California's less fortunate.

13 I would like to reurge, and I've heard that you've
14 indicated the use of that newly created task force and the
15 Legislature as a sounding board before you get too far down the
16 wrong path with some of these ideas. You're very creative. You
17 just seem to be moving faster than what people can be expected to
18 understand and absorb.

19 That's all I would have.

20 SENATOR CRAVEN: Very well, thank you very much,
21 Senator.

22 Senator Beverly, have you any comment at all?

23 Is there anyone in the audience that you have that
24 wishes to testify on your behalf? Is there anyone who wishes to
25 testify in opposition? There appears to be none.

26 SENATOR BEVERLY: Move the approval of the appointment.
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1 SENATOR CRAVEN: Senator Beverly moves the confirmation
2 of Theresa A. Speake as Director.

3 MS. MICHEL: We have witnesses who wish to testify.

4 SENATOR CRAVEN: We do have? I'm sorry, I didn't see
5 them.

6 Excuse me, sir. Why don't you come up and sit down.

7 MR. THRONE: I was hiding back there. I'm sorry.

8 SENATOR CRAVEN: State your name, please.

9 MR. THRONE: Senator Roberti, Members of the Senate
10 Rules Committee, good afternoon.

11 My name is Lloyd Throne, and I'm the Director of the
12 Redwood Community Action Agency, located on the beautiful, cool
13 North Coast of California.

14 I'm also the Vice President of the Cal-Neva Association,
15 which is an association of community action agencies and other
16 human service agencies that provide a myriad of human services to
17 approximately 8 million Californians. These are units of
18 service.

19 These agencies have established a proud and notable
20 25-year track record of service and successful programs to help
21 alleviate poverty in our state, despite severe reductions in
22 funding for many of our program efforts. It's in this latter
23 capacity that I am before you today.

24 As an aside, I might say that I -- to get to and from
25 Eureka today, I will be in the car 12 hours to speak to you a few
26 minutes. I hope what I have to say is somewhat meaningful.
27
28

1 In an effort to save time, we request that the letter
2 written by our President, Ms. Lois Carson, dated 06/08 to
3 Chairman Roberti, be put on the record.

4 The Cal-Neva network supports the appointment of Theresa
5 Avilar-Speake as Director of the State Office of Economic
6 Opportunity. The association and its individual member agencies
7 have had the opportunity to work with Ms. Avilar-Speake for many
8 years, and we are impressed with her desire, commitment and
9 enthusiasm.

10 Ms. Avilar-Speake will assume directorship of an office
11 that has been in dire need of strong and positive leadership.
12 Historically, there have been major concerns and problems
13 regarding the Department of Economic Opportunity which have not
14 been resolved or adequately addressed by past directors. These
15 issues remain today and are important to surface at this time.

16 Some are as follows: the nonexistence of policies and
17 procedures which have resulted in inconsistent and confusing
18 action, specifically these concerns pertain to funding,
19 association formulas, public notification, contract and grievance
20 procedures, contract time lines and development processes, pay
21 back and recaptured funds policies, and redistribution policies
22 concerning those funds.

23 Most concerns pertain to the Department of Energy
24 weatherization and Petroleum Violation Escrow Account, PVEA,
25 low-income funding activities.

26 Cal-Neva network seeks stable regulations and policies
27 that are logically and firmly established and clearly presented,
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publicly noticed, enhance of service delivery efforts, equitable, and are tailored to the unique geographical areas and special needs of the community action agencies.

Other issues include: limited term contracts for less than one year, procedures for individual contractor grievances, changes in contracts late in the contract year, publication of recipients of unexpended and recaptured funds, which -- an example of this was a \$300,000 grant utilizing DOE funding.

CAAs have been successful over a 25-year period -- the Economic Opportunity Act just celebrated its 25th anniversary this year -- because of their capacity to generate resources. The California ratio is seven-to-one for every dollar received. Many agencies are double this amount. One has only to think what would happen if we worked more in concert with the Department of Economic Opportunity to further enhance our resource mobilization efforts.

Except for the use of discretionary funds to offset CSBG, Community Service Block Grant, national reductions of approximately 58 percent to the local levels over the last nine, ten years, DEO has historically done very little to help CAAs and other network agencies generate other resources.

A meaningful partnership between Cal-Neva and DEO would greatly enhance local agencies' ability to leverage these scarce dollars even more to the benefit of the low-income and disadvantaged in our state.

CAAs provide a unique blend of local control, involvement of the poor, committed staff and board members, and

1 stringent requirements that funding be spent according to local
2 needs. These agencies offer a unique and often underutilized
3 vehicle to provide meaningful solutions to our ever increasing
4 and complex human service needs.

5 The opportunity now exists for DEO initiatives and new
6 efforts to support the network. Areas such as child care,
7 community food nutrition programs, homeless, welfare reform, drug
8 abuse prevention and education, economic revitalization,
9 especially in rural areas, and employment and job training are
10 ripe for DEO liaison and promotion in linking the funds in
11 cooperative ventures.

12 In consideration of some of the thoughts listed here,
13 the Cal-Neva network acknowledges that Theresa Avilar-Speake
14 possesses the capabilities to accomplish the necessary objective
15 and to solve historic problems. In her brief tenure, she has
16 taken several initiatives; among them are creating an individual
17 communications forum with other California State department heads
18 in which CAA efforts were promoted, and there have been efforts
19 to address the inequity of the DOE allocation formula, which has
20 already been discussed.

21 Ms. Speake has advocated fixed-price contracts for DOE,
22 and she has advocated full census counting -- a full census
23 count, and has streamlined some of the DEO contracting process to
24 ensure a timely and consistent cash flow to our agencies, which
25 are historically suffering from huge account receivables from
26 some of our grants.

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1 She communicates regularly with the network, and we are
2 eager to participate with her on the review task force in
3 preparation of the joint report to the Legislature on
4 January 15th. Membership will diligently work with her in a
5 spirit of cooperation and encourage a strong leadership role for
6 her Department.

7 Thank you for your attention.

8 SENATOR BEVERLY: I renew my motion.

9 CHAIRMAN ROBERTI: Question from Senator Mello.

10 SENATOR MELLO: I just have a brief question.

11 In looking at your biographical information, you
12 received a B.S. degree from California State University in Fresno
13 in 1983.

14 MS. SPEAKE: Right.

15 SENATOR MELLO: In 1986, you received a Master's Degree
16 in Business Administration from Golden Gate University in
17 Sacramento.

18 MS. SPEAKE: I am working on that degree now. I have
19 not received a degree. I had to drop out for a little while. I
20 do not have it right now.

21 SENATOR MELLO: So then the Governor's Press Release,
22 Number 575, that says you have received your degree, is in error?

23 MS. SPEAKE: It was in error, yes.

24 SENATOR MELLO: Have you so notified them?

25 MS. SPEAKE: Yes, but it was already published when I
26 got it.

1 SENATOR MELLO: This other biographical information also
2 says the same thing.

3 MS. SPEAKE: I think it -- I believe it says working on
4 it, or something, pending?

5 SENATOR MELLO: No, it says that you're a single parent
6 with three children. It says that you received your Bachelor's
7 Degree from Fresno in 1984, "... and her Master's Degree in
8 Business Administration from Golden Gate University in 1986."

9 MS. SPEAKE: No, that is incorrect. I am working on my
10 Master's Degree.

11 SENATOR MELLO: I just wanted to get that straightened
12 out. Thank you.

13 CHAIRMAN ROBERTI: Yes, please come forward.

14 MS. CARNEY: Senator Roberti and Members of the Senate
15 Rules Committee, my name is Callie Carney. I am the Executive
16 Director for a community service program called Women's Civic
17 Improvement Club of Sacramento.

18 I'm here representing Cal-Neva this afternoon in terms
19 of the association's support for Theresa Avilar-Speake as
20 Director of the Department of Economic Opportunity.

21 We also wanted to make sure that in this presentation,
22 that because of some concerns contractors have had over a period
23 of at least the last 15 years with the Department, we don't want
24 it to be construed that all of them or most of them or a great
25 number of them have been with Ms. Speake. They have been other
26 directors besides her.

27
28

1 But we would like to highlight those in terms of some
2 concerns that we, as operators, have in terms of the programs.

3 One of the things that we would like to speak to and
4 hope that will occur in this next term of office would be that
5 the DEO, who are the administrators of the antipoverty level
6 program services to our constituencies of the state, and we the
7 providers of those services, and I'd like to share with the
8 Committee and remind some of us that when Theresa first got the
9 appointment, many of us went to say congratulations. One of the
10 things I said that night in my presentation to her is that we
11 have, as operators, learned to try to try to steer clear of the
12 word poor and poverty. We find that that is not necessarily an
13 acceptable English word in these days, so we came up with the
14 more palatable statement; we call it the less fortunate
15 population in the state.

16 What we have asked is that we would like to see that
17 development of relationship of a joint venture between DEO and
18 the operators or providers of services in a more sound, firm
19 manner. And that also, that when we -- if we can develop that
20 partnership or relationship, that we would be able to release or
21 diminish the number of telephone calls and the kind of things
22 that have had to occur over the last few years in terms of
23 personal relationship in a more positive working relationship.

24 We want to again restate briefly, and I don't want to go
25 back over some of the things that Senator Petris covered when he
26 talked about some of the things that have been initiated already
27 in her first past year of services in the Department, and
28

1 certainly we appreciate those from Ms. Speake and hope that they
2 will certainly grow.

3 And the one of the basic things we hope will happen is
4 that the coordination between other departments, that this
5 Department will soon be at a level of acceptability and
6 respectability that other State departments have, being the
7 newest one in the State of California. And that the process will
8 also develop a written context of criteria, not only for
9 operators, but for the Department in terms of specific progress
10 on not only an annual basis, but on also the new directors as
11 they come and go. We have seen four in the last two to four
12 years without any idea of what we were going to be able to look
13 forward to, nor time-frames about accomplishments. We would like
14 to see that more finalized.

15 Also, a basic criteria as other departments have that
16 would say no matter who the director is, or turns out to be, that
17 they have criteria that will be a constant continuity so that
18 people have some sanity. And believe you me, working in a
19 program servicing the kind of clients that we do, there is enough
20 insanity without having any extra.

21 I would like to also just point out again that we have
22 been economically, we think, stabilized in terms of a good
23 product investment, when we have return on a one-to-seven ratio
24 consistently across the board in terms of our efforts.

25 I would like to say in that, certainly when you look at
26 that, and you look at us, and if you compare any DEO program, the
27 staffing salaries, the capabilities of constant transition to
28

1 other jobs, whether it be in the state or anywhere else, is
2 almost impossible. There's never enough money to pay qualified
3 people to really be trained in terms of doing those things that
4 we need to do well. You help people, but you don't help them
5 fall off into a river. You try to help them to learn to swim if
6 they should get there. You cannot do that if you can't afford to
7 hire the kind of skills necessary and given them some kinds of
8 benefits.

9 We don't have a retirement. We don't have any kind of
10 insurances in many of the programs, and that hurts when you're
11 really looking for people in this job marketplace. I think
12 that's a concern that we would like to see happening in the
13 future in terms of program.

14 It is very critical to agencies like ours and other
15 agencies who are providers for our survival that, with Cal-Neva
16 and DEO in the State of California, that our poor families that
17 we serve, the individuals that we try to provide services to in
18 terms of helping the homeless, seniors, families, and other
19 people that we come in contact with that sometimes aren't even in
20 our stats or on our records, that we know exactly where our heads
21 are and where we're going, and that we have something written or
22 tangible that we can refer back to.

23 When you ask me what that means, I am saying that over
24 the last 25 years, we've had just one document that we could
25 refer back to. And when I looked at that over the last week,
26 when I was thinking what I would say to the Committee in support
27 Ms. Speake for this position, one of the things that came to mind
28

1 was the original mission of the OEO Act itself in 1964. And
2 certainly, the DEO mission statement in terms of its mission to
3 affirm and carry out the policies of the State of California.
4 But certainly, that is the mission statement of the Cal-Neva
5 association and its members.

6 The vision for services to the poor was a great
7 theoretical idea; however, when we started looking at how the
8 money would come in order to do that, when we said in American
9 English to give us your poor and your disadvantaged and
10 handicapped, we forgot to say that also when we do that, it's
11 going to cost us some more money out of pocket, and we're going
12 to have to become ingenious in how we're going to create the
13 money in order to handle all of the needs of these varied
14 cultures, these people with language barriers, these people who
15 come into the country, don't have anywhere to stay, and certainly
16 some of the people who've been around like Blacks and Hispanics
17 since 1960, and is not in anybody's computers because they
18 haven't had jobs and are not listed anywhere unless they're in
19 prison.

20 We do not deal with some of those realities, and that is
21 a serious concern. So, when we talk about something tangible, a
22 written format to say we want to have some basic idea of what we
23 think we can do, realistically, to people to give hope for them
24 to hang on to till, hopefully, something can be better. So, what
25 that says, teach people how to mark time and pray and hope.

26 But lastly what I would like to say is, the dream and
27 vision and mission of Cal-Neva and its members is that since
28

1 we've served since 1979, over 4 million Californians -- that
2 happened because in 1979, the Community Action programs allocated
3 dollars along with words and concepts to conduct outreach and
4 education activities in targeted areas. From working in this
5 area for 25 years, and I have to add about 10 or 15 more to that,
6 we know that our clients require special assistance many times in
7 understanding the details of questions, passing tests, breaking
8 into a new mechanized community, where we have not generated
9 commercial businesses and jobs at the same time we've almost
10 doubled in population.

11 We hope that when we look at a social worker and a
12 dishwasher over the next 18 months, that certainly by then, if
13 Theresa Speake is approved and affirmed by this Committee and the
14 Legislature to be the Director, that the Department of Economic
15 Opportunity, along with program operators, will sit down and work
16 together in terms of making these dollars go as far as we can get
17 them to go, do as much as we can get it to do, in terms of
18 helping people learn how to help themselves, not become crippled
19 and then penalized because they did well.

20 CHAIRMAN ROBERTI: Thank you very much.

21 Are there any questions? Senator Beverly has a motion.
22 Secretary will call the roll.

23 SECRETARY WEBB: Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Senator Mello.

26 SENATOR MELLO: Aye.

27 SECRETARY WEBB: Senator Petris.
28

1 SENATOR PETRIS: Aye.

2 SECRETARY WEBB: Senator Craven.

3 SENATOR CRAVEN: Aye.

4 SECRETARY WEBB: Senator Roberti.

5 CHAIRMAN ROBERTI: Aye.

6 The vote is five to nothing; confirmation is recommended
7 to the Floor.

8 Thank you.

9 (Thereupon this portion of the Senate
10 Rules Committee hearing was terminated
11 at approximately 3:10 P.M.)

12 --oo0oo--
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

15th

day of June, 1989.


EVELYN MIZAK
Shorthand Reporter

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SENATE RULES COMMITTEE
STATE OF CALIFORNIA

Legislative



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17 1:40 P.M.
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25

26 Evelyn Mizak
27 Shorthand Reporter
28

APPEARANCESMEMBERS PRESENT

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

MEMBERS ABSENT

SENATOR DAVID ROBERTI, Chairman

SENATOR HENRY MELLO

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

GEORGE E. INGLE, Superintendent
Mule Creek State Prison

MARYELA MARTINEZ, Member
State Board of Education

JOHN P. WARAAS, Chief
Bureau of Automotive Repair

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P R O C E E D I N G S

--oo0oo--

SENATOR CRAVEN: Let's go to Item 2, Governor's Appointees appearing today, the first of whom is George E. Ingle, Superintendent, Mule Creek State Prison.

Mr. Ingle, would you come forward and tell us why you feel that you are qualified for this particular appointment.

MR. INGLE: Mr. Chairman, Members of the Senate Rules Committee, it is my pleasure to appear before the Senate Rules Committee to present my qualifications.

My background includes 25 years in the field of corrections, starting in 1964 as a correctional officer. I promoted through the ranks, serving in 12 different civil service classifications. I have served at six correctional institutions and with the Parole and Community Service Division. My experience and assignments include both a wide variety of field operations and staff assignments in Corrections Headquarters.

While at Headquarters, I served in the capacity of Chief of Classifications, Assistant Deputy Director, Institutions Division, with responsibility for statewide policy development and policy compliance.

This varied background with the wide range of experience has helped to prepare me for the position of Superintendent.

SENATOR CRAVEN: Very good. You are a career civil service person?

MR. INGLE: That's correct, sir.

1 SENATOR CRAVEN: How many years did you say that you
2 have?

3 MR. INGLE: Twenty-five, sir.

4 SENATOR CRAVEN: How long have you been operating in
5 your present capacity?

6 MR. INGLE: Since September the 22nd of last year, sir.

7 SENATOR CRAVEN: Do the Senators have any questions that
8 they wish to ask of Mr. Ingle?

9 Is there anyone in the audience who wishes to testify on
10 behalf of the nominee or in opposition? There appears to be
11 none.

12 Do I have a motion?

13 SENATOR BEVERLY: Move we recommend approval.

14 SENATOR CRAVEN: Senator Beverly moves the
15 recommendation of the appointment to the Floor in the case of
16 George E. Ingle.

17 Call the roll, please.

18 SECRETARY WEBB: Senator Beverly.

19 SENATOR BEVERLY: Aye.

20 SECRETARY WEBB: Senator Mello. Senator Petris.

21 SENATOR PETRIS: Aye.

22 SECRETARY WEBB: Senator Craven.

23 SENATOR CRAVEN: Aye.

24 SECRETARY WEBB: Senator Roberti.

25 SENATOR CRAVEN: The vote is 3-0; the matter moves to
26 the Floor.

27 Congratulations.
28

1 MR. INGLE: Thank you, sir.

2 SENATOR CRAVEN: Next is Maryela Martinez, Member, State
3 Board of Education.

4 Now we'll ask you the same thing, Ms. Martinez, as to
5 why you feel that you're qualified for this appointment. You
6 might also explain your first name.

7 MS. MARTINEZ: My first name, most people pronounce it
8 Mary-Ella. In Spanish it's Maree-Ela.

9 SENATOR CRAVEN: Yes, well you see, I'm a Lithuanian,
10 and I just don't have much fluency for those things.

11 MS. MARTINEZ: I respond either way.

12 I've been serving as a student member of the State Board
13 of Education since September of 1988. I have one meeting to go
14 in July.

15 I have been educated in California since my arrival at
16 the United States in 1980, and I have graduated from high school
17 recently, last week.

18 And it has been a real pleasure. And, as I said, I only
19 have one month left, but I feel that the time that I've spent on
20 the Board has been very rewarding.

21 SENATOR CRAVEN: How long ago did you say you came to
22 the United States?

23 MS. MARTINEZ: I came to the United States in 1980.

24 SENATOR CRAVEN: From?

25 MS. MARTINEZ: Cuba.

26 SENATOR CRAVEN: We're delighted to have you as a
27 nominee, and congratulations upon your graduation as well.
28

1 MS. MARTINEZ: Thank you.

2 SENATOR CRAVEN: The Members join with me in that.

3 Do you have anything other than congratulatory remarks?

4 SENATOR PETRIS: Ms. Martinez, what do you do on the
5 Board anyway?

6 MS. MARTINEZ: Basically I am responsible for all of the
7 requirements of Board membership, but I also try to get as much
8 input from students as I possibly can. I am supposed to get
9 input from students and relate to them what is going on, so
10 that's mainly the difference between me and the other --

11 SENATOR PETRIS: How do you do that?

12 MS. MARTINEZ: It's difficult. There are a lot of
13 students, and I've tried to get input from a lot of them. Some
14 of them have not responded.

15 There are organizations throughout the state, for
16 example, SAVE, Student Advisory Board on Education. I have
17 contacted some of them, and I've been in touch with them as I've
18 served on the Board.

19 Also, CASC, they are connected with the students who
20 serve on local boards for the local districts.

21 SENATOR PETRIS: Do you talk to your fellow students in
22 your own high school?

23 MS. MARTINEZ: Definitely, yes.

24 SENATOR PETRIS: Do you go to other high schools?

25 MS. MARTINEZ: I've been -- I've talked -- I haven't
26 gone to any of the high schools, but I have spoken to them over
27 the phone. I have met with some of them here in Sacramento when
28 they've had their annual conferences.

1 SENATOR PETRIS: You know, we have one of the highest
2 high school dropout rates in the country. Can you tell me why,
3 especially among Hispanic and Black students.

4 MS. MARTINEZ: I think that a lot of that comes from
5 what the students receive in the home. I think it all starts
6 very early. If a child is motivated when he or she is very
7 young, then a desire to learn is in them by the time they enter
8 preschool, by the time they enter kindergarten.

9 I think that also a lot of the students are in school
10 because they have to and not because they really want to learn.
11 And I think that in order to make the most of those 12 years in
12 the public school system, you have to be motivated, and you have
13 to want to do it.

14 I think that that lack of desire, it's just feeling that
15 you're there because you have to, is what --

16 SENATOR PETRIS: How do you account for that? Is it the
17 parents at home in the home situation?

18 MS. MARTINEZ: I would think so.

19 The students I've been able to talk to have either come
20 from broken homes; some of them have been involved very early on
21 with problems with drugs or alcohol.

22 Fortunately, I've never had any of those problems. I've
23 been motivated ever since I first started attending school.

24 I would think that it starts very early on, and that
25 would probably be the best place.

26 SENATOR PETRIS: What should we do to turn it around?
27
28

1 MS. MARTINEZ: I would think, starting at the earliest
2 age, as I said, maybe motivating the students. I know there are
3 some programs.

4 I saw on the news last night that there are some
5 students who just graduated from preschool, and they'll be the
6 Class of the year 2000. And they're being told not to smoke, not
7 to -- there are a lot of programs also that encourage the
8 children not to accept drugs, not to accepting anything that
9 would possibly jeopardize their career in school.

10 SENATOR PETRIS: What about counseling parents?

11 MS. MARTINEZ: Counseling the parents, definitely,
12 because I believe that -- I know that in my schooling, my parents
13 have been vital to my wanting to succeed in school, and
14 counseling the parents and letting them know the important of
15 education is --

16 SENATOR PETRIS: Are we doing any of that now in
17 California?

18 MS. MARTINEZ: There is a program that came before the
19 Board. I don't remember how long, and I don't know exactly what
20 it consisted of, but it was in early childhood education and also
21 getting the parents involved, trying to get them involved in
22 their child's schooling.

23 SENATOR PETRIS: We used to have a compensatory
24 education program which included counseling of parents. That
25 seems to have gone by the wayside. I don't hear much about it
26 any more.

27
28

1 Do we have any universal, across the state, strong
2 effort being made to pull in the parents as a way of motivating
3 them in order to motivate their children?

4 MS. MARTINEZ: I don't know universally throughout the
5 state.

6 I know that in my district, the district that I just
7 graduated from, there are groups which motivate the parents and
8 who get together with the parents. Parts of the district are
9 low-income, parts of them are not, but a lot of the parents who
10 would not otherwise be involved in the education of their
11 children are being brought to school and talked to, not only by
12 teachers but also by students.

13 SENATOR PETRIS: What are the results of that?

14 MS. MARTINEZ: We've spoken to the children who have
15 been involved in that kind of program, and they've felt the
16 rewards because, for example, at the open house, or when they
17 receive the parents at the schools, there's more turnout. You
18 know, the children feel proud of what they're doing in school and
19 they wish to strive to do better in school because of that.

20 SENATOR PETRIS: What is your view on the need for
21 bilingual education?

22 MS. MARTINEZ: When I came to the United States, I did
23 not speak a word of English. And that -- I was confronted by
24 that very thing, bilingual education.

25 SENATOR PETRIS: How old were you at the time?

26 MS. MARTINEZ: I was eight years old, almost nine.
27
28

1 The school I attended did not have an established
2 bilingual program. I was taken out of class every week, and an
3 aide would record my progress.

4 I think that helped me to get on track at school much
5 more quickly than if i had been placed in the classroom where
6 Spanish had been spoken for most of the time.

7 I'm grateful, but I realize that a lot of children would
8 not be able to adjust in such circumstances.

9 SENATOR PETRIS: What did they do on the weekend? You
10 had separate classes?

11 MS. MARTINEZ: Not on the weekend. They would take me
12 out for an hour every week, and they would measure my progress in
13 grammar, in reading, things like that.

14 SENATOR PETRIS: Was that a district-wide program?

15 MS. MARTINEZ: Yes.

16 SENATOR PETRIS: Do you think that's the best way to go
17 for all the students?

18 MS. MARTINEZ: I can't say about --

19 SENATOR PETRIS: Forget about a bilingual program?

20 MS. MARTINEZ: No, I don't think that should be done.

21 As I said, for me I think that it was beneficial because
22 I was able to adjust much more quickly.

23 There are children who can't do that; they would just
24 break from the pressure, and then they should be given more
25 attention in getting them to learn the English language.

26 SENATOR PETRIS: Did you come in from Cuba with your
27 whole family?

1 MS. MARTINEZ: Yes, I did.

2 SENATOR PETRIS: Did you parents speak English?

3 MS. MARTINEZ: They had learned English in high school
4 just like students here learn other languages, but they had never
5 actually visited the United States or spoken it fluently.

6 SENATOR PETRIS: Thank you.

7 SENATOR CRAVEN: I think one of the interesting things
8 to me, I've gone to school, as a matter of fact I went to high
9 school with some Cubans, and they have very distinctive patois,
10 accent, none of which I discern in your speech. You speak very
11 beautifully.

12 MS. MARTINEZ: Thank you.

13 SENATOR CRAVEN: Not that Cubans don't speak beautifully
14 in their native language, but the transition ordinarily, well,
15 just think of Desi Arnez, if you will. He was the perennial
16 Cuban, and he spoke that way off-screen just as well as on-screen
17 because I had the good fortune of spending some time with him.

18 Senator Beverly, do you have any questions?

19 SENATOR BEVERLY: Refresh me, do you have a vote on the
20 Board?

21 MS. MARTINEZ: Yes, I do.

22 SENATOR BEVERLY: You have a full vote?

23 MS. MARTINEZ: Full vote.

24 SENATOR BEVERLY: I'll refrain from lobbying you on a
25 very controversial issue on the Palos Verdes Peninsula.

26 MS. MARTINEZ: We've heard a lot about that.
27
28

1 SENATOR BEVERLY: Except to say that the law should be
2 followed and should go on its merits.

3 Thank you.

4 SENATOR CRAVEN: Those are words of wisdom. These
5 fellows don't have gray hair like that for nothing. They've
6 worked for it.

7 (Laughter.)

8 SENATOR BEVERLY: Move the approval of the confirmation.

9 SENATOR CRAVEN: Senator Beverly moves the confirmation
10 of Ms. Martinez as a Member of the State Board of Education.

11 Call the roll, please.

12 SECRETARY WEBB: Senator Beverly.

13 SENATOR BEVERLY: Aye.

14 SECRETARY WEBB: Senator Mello. Senator Petris.

15 SENATOR PETRIS: Aye.

16 SECRETARY WEBB: Senator Craven.

17 SENATOR CRAVEN: Aye.

18 SECRETARY WEBB: Senator Roberti.

19 SENATOR CRAVEN: Very good, the measure is out 3-0.

20 Thank you very much.

21 MS. MARTINEZ: Thank you.

22 SENATOR CRAVEN: Congratulations and much success.

23 I'd like to ask you, are you going to go to college this
24 coming semester?

25 MS. MARTINEZ: Yes, I will.

26 SENATOR CRAVEN: Whereabouts?

27 MS. MARTINEZ: Harvard.
28

1 SENATOR CRAVEN: Wonderful. Then you'll have a
2 different accent. You'll have all the broad a's.

3 (Laughter.)

4 SENATOR CRAVEN: Next is John P. Warass, Chief, Bureau
5 of Automotive Repair.

6 If I have mispronounced your name, please correct me.

7 MR. WARAAS: That's correct.

8 SENATOR CRAVEN: Thank you very much, sir.

9 Would you tell us, please, why you feel you're qualified
10 for this position.

11 MR. WARAAS: Thank you, Senator.

12 I appreciate the opportunity to come before you this
13 afternoon and explain my qualifications.

14 I've been a State employee involved with the State for
15 over 23 years; 18 of those 23 years I've been involved in
16 management-level positions and management-level decisions.

17 Essentially, I've dealt with health services type
18 issues. I was principle analyst on the Medicaid budget --
19 Medi-Cal budget. I dealt with consumer affairs type issues and
20 resources issues.

21 From 1983 to 1987, I was in the Washington, D.C., office
22 representing the Department of Finance at the federal level on
23 federal legislation and on legislative issues.

24 I have since been in California over 18 months, almost
25 two years, and I've been Deputy Secretary prior to my current
26 assignment of the State and Consumer Services Agency.

27
28

1 I think even more important than that, I feel that I
2 have noticed that the Bureau of Automotive Repair duties and
3 their responsibilities over the next few years are going to grow
4 very greatly, particularly involved with the SB 1997, which was
5 Senator Presley's legislation which really overhauls greatly the
6 smog check program and our responsibilities.

7 I'm really looking forward to being a part of that
8 effort.

9 SENATOR CRAVEN: Senator Petris, have you any questions?

10 SENATOR PETRIS: Yes.

11 Speaking of Senator Presley, I'm concerned about the
12 firing of your predecessor and certain policies that follow after
13 that. I'd appreciate some clarification.

14 I have an article here from the L.A. Times of
15 February 11, describing the termination of your predecessor and
16 quoting an industry spokesperson as saying:

17 "We were stunned The industry felt
18 that he was firm but fair in enforcing
19 the law and was willing to anyone who
20 had ideas on how the program could be
21 improved."

22 The headline says he was demoted, and then the
23 Department spokesperson says no, that wasn't a demotion; it was
24 just a reassignment.

25 It was really a demotion, though; wasn't it?

26 MR. WARAAS: I think it was a reassignment in terms of
27 salary level, position level. It is comparable. He has remained
28 within the Department of Consumer Affairs.

1 He has changed duties, but he now heads up a very
2 sensitive program, the Lemon Law program, which was Sally
3 Tanner's bill of last year. And he is responsible for full
4 implementation and development of that program.

5 SENATOR PETRIS: Now, the consumer groups that follow
6 consumer service activities in the state have expressed a very
7 big disappointment, and it's no reflection on you. It's just
8 that they felt he was doing a good job. He was really interested
9 in enforcing the law.

10 I'll give you an example or two. He had instituted a
11 very aggressive undercover enforcement effort in faulty smog
12 check stations, and that resulted in almost a 30 percent increase
13 in doing these things correctly. In other words, it was
14 upgraded.

15 Now, that in turn raised the blood pressure and tension
16 level among the smog check operators. They didn't know who was
17 going to get hit next. Some people think that's why he was
18 fired.

19 Are you continuing that same policy of aggressive
20 undercover operations?

21 MR. WARAAS: Very much so. I fully agree with that
22 operation that he did institute under legislation which was
23 passed here, I think, prior to this year.

24 We received significant increases in resources to
25 develop our undercover operation, and as a matter of fact, much
26 to the dismay of some members of the industry, I have continued
27 that effort, and I encourage that very much.

1 By the way, I'd like to mention, it's been a very
2 successful effort, you're right. Initially, when we started our
3 undercover operations, we were receiving 70 percent what we call
4 hit rates. And what I mean is, one of seven major components of
5 the automobile has been taken off of one of our undercover cars;
6 we go into a shop; we ask for a smog check, knowing that one of
7 the components is removed. In seven out of ten times when we
8 initiated this program less than two years ago, we were receiving
9 a smog certificate for that vehicle in seven out of ten smog
10 checks based on that sample.

11 SENATOR PETRIS: How do you account for that anyway? Is
12 that just larceny at heart, or incompetence?

13 MR. WARAAS: I think that early on in the program now,
14 this is when it was introduced, this came to be for about six to
15 seven months, while we were putting our program into effect.

16 I think as word has spread, we have found -- I know we
17 have found that that rate has been reduced to less than three out
18 of ten, or less than 30 percent. And I believe quite fully
19 that's due only to our undercover operation and the fact that
20 we've been very overt in terms of letting people know that we're
21 running these cars.

22 The primary problem that we've found is that some
23 members of the industry do not take the time sufficient to do a
24 thorough check. They're doing the tailpipe inspection very
25 thoroughly because that's a rather rapid process, but they're not
26 looking and taking the time to touch or to look at and identify
27 the seven major components, which are very critical to the smog
28

1 test. Without doing that, you're not really testing adequately
2 for NOX emissions, and NOX emissions are very critical.

3 SENATOR PETRIS: So you're vigorously pursuing this same
4 policy?

5 MR. WARAAS: Very much so. We have budgeted for 8,000
6 runs by the end of this month this past year. We're ahead of
7 budget. We've done something in excess of 8,000 runs, and we're
8 just starting our evaluation of the first year. And I'm really
9 pleased with the outcome.

10 SENATOR PETRIS: Do you use citations?

11 MR. WARAAS: We do. We issue citations for both
12 consumer issues of inappropriateness and under the smog check
13 program also.

14 SENATOR PETRIS: How long has the citation policy been
15 in effect? Is that an old one?

16 MR. WARAAS: On the smog check program, it's been in
17 effect just basically two years, almost two years.

18 SENATOR PETRIS: To keep a handle on the nature of work
19 in addition to the undercover operation, how do you stay in touch
20 with the private monitors, I'll call them, the consumer
21 watchdogs? Do you meet with any consumer groups from time to
22 time, or have periodic public meetings to see what the public
23 reaction is to the operation of the program?

24 MR. WARAAS: I haven't had an opportunity yet to get
25 involved in that area. I've been on board four months.

26 What we've done along that line is, I've met personally
27 with the Deputy Attorney Generals in Los Angeles, San Francisco,
28

1 and in Sacramento which handle our cases. And we've let it be
2 known that we're going to be requiring more support from them in
3 terms of legal support, because we have to have that backup to go
4 forward in the consumer area.

5 We do intend, by the way, to increase our efforts in the
6 general consumer protection area. That's very much our goal.

7 SENATOR PETRIS: How does that citation system work? I
8 get cited for a violation or faulty mechanism. What happens
9 next? I'm given an opportunity to get it repaired, get it
10 corrected?

11 MR. WARAAS: I'm sorry. Our citation process works for
12 -- or works in the area of the smog check program in terms of the
13 shops that aren't doing a complete job.

14 That's in terms -- we don't have the enforcement backup
15 in terms of citations for private individuals who may have
16 tampered with --

17 SENATOR PETRIS: If I'm a shop operator, and I get cited
18 by your department, what do I have to do?

19 MR. WARAAS: Well, first off, under this process we've
20 let it be known that, you know, we're running cars with one of
21 those seven components missing. And they're generally up-front
22 and they're very obvious. They've been surgically removed and
23 not something we're trying to cover.

24 If your shop does not identify that one of those systems
25 is missing from the car, we remove the car; we take pictures of
26 it. It has to be done properly in terms of preparing for a court
27 proceeding, and we do issue a citation. The first citation is
28

1 \$250; the second citation is 750; third citation is 1500, and
2 then it's possible license revocation.

3 SENATOR PETRIS: Are there court hearings on this or
4 administrative hearings?

5 MR. WARAAS: There is an administrative hearing process
6 available, ALJ, administrative law judge.

7 We let it be known up-front that we will return with
8 another car, another undercover car, within the next -- I believe
9 it's 60 days. So, it's a known situation that, you know, you've
10 been cited once; we'll have another car in your facility again
11 within X period of time.

12 SENATOR PETRIS: That's how you got the big improvement
13 in that system?

14 MR. WARAAS: That's correct.

15 If there is a twelve-month period that goes by between
16 the first citation and any further, then you go back to first
17 level. You don't graduate up.

18 SENATOR PETRIS: Thank you.

19 SENATOR CRAVEN: Senator Beverly?

20 SENATOR BEVERLY: No questions.

21 SENATOR CRAVEN: Senator Petris, do you want to make a
22 motion?

23 SENATOR PETRIS: I move the confirmation.

24 SENATOR CRAVEN: Senator Petris moves the confirmation.

25 No one in the audience wishes to make any comment?
26 There appears to be none.

27 Call the roll.
28

1 SECRETARY WEBB: Senator Beverly.

2 SENATOR BEVERLY: Aye.

3 SECRETARY WEBB: Senator Mello. Senator Petris.

4 SENATOR PETRIS: Aye.

5 SECRETARY WEBB: Senator Craven.

6 SENATOR CRAVEN: Aye.

7 SECRETARY WEBB: Senator Roberti.

8 SENATOR CRAVEN: The matter is out 3-0 to the Floor.
9 Congratulations.

10 MR. WARAAS: Thank you very much, sir.

11 (Thereupon this portion of the Senate
12 Rules Committee hearing was terminated
13 at approximately 2:10 P.M.)

14 --oo0oo--
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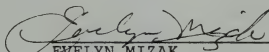
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That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

21st day of June, 1989.


EVELYN MIZAK
Shorthand Reporter

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STATE OF CALIFORNIA

Legislature



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APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman

SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

SENATOR DAN BOATWRIGHT

MARVIN R. BAXTER, Member
Board of Directors
Hastings College of the Law

GARY MICHAEL COUTIN, Esq.
Attorney at Law
San Francisco

JOHN E. GALLAGHER, Member and Chair
California Waste Management Board

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MARVIN R. BAXTER, Member
Board of Directors,
Hastings College of the Law

2

Witness in Opposition:

GARY MICHAEL COUTIN, Esq.
Attorney at Law; Hastings Alumni

3

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3

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P R O C E E D I N G S

--oo0oo--

SENATOR BOATWRIGHT: I'd like to just say something about John Gallagher. And the reason I'd like to do this is because, Senator Petris is aware as the other people around Contra Costa County, of the tremendous hardship our Board of Supervisors has had in coming to a decision on a solid waste site. As a matter of fact, they're five years overdue.

The present site will close up in September, and they still haven't cited a site. We don't know what we're going to do with our garbage, frankly.

I have worked during the last year personally with Mr. Gallagher, primarily with John Gallagher, and he has been absolutely a gem in trying to resolve this problem with Contra Costa County, and he has worked very closely with me.

I don't know if Senator Petris has had any occasion to get involved in this. In a way, I hope not.

SENATOR PETRIS: I've tried to stay out of it.

SENATOR BOATWRIGHT: It's been a real headache. In fact, I flew down last evening and met with Supervisor Powers and some other people on this issue.

It's crucial. And John Gallagher has been absolutely superb in attempting to help my county resolve this problem.

I want to put a word in for his confirmation. I think it's rare that you get a person who has the many years that he has in this and still has the exuberance for doing the work.

I just would urge his reappointment to the Solid Waste Management Board.

SENATOR CRAVEN: Thank you very much, Senator.

SENATOR BOATWRIGHT: Thank you.

(Thereupon the Senate Rules Committee acted on legislative agenda items.)

SENATOR CRAVEN: Senator Beverly.

SENATOR BEVERLY: We've been keeping Justice Baxter waiting for over two hours. Is that the next item?

SENATOR CRAVEN: You're suggesting we go to the Governor's Appointees appearing today?

SENATOR BEVERLY: Yes.

SENATOR CRAVEN: Very well, Item Three, Marvin R. Baxter, Member, Board of Directors, Hastings College of the Law. Please come forward, Justice Baxter. You may sit down if you wish.

If you would, sir, please tell us why you feel that you're qualified for this particular appointment.

MR. BAXTER: Without repeating everything on the resume, I would like to make reference to my involvement in higher education.

As a student at Fresno State, having served as Student Body President, and having served as President of the Alumni Association there and President of the Trust Council, so my interest in higher education has always been paramount as far as extracurricular activities are concerned.

1 I'm an alumnus of Hastings and look forward to helping
2 resolve the many problems that Hastings has as a law school in a
3 metropolitan center in San Francisco.

4 I'd be happy to respond to any questions that the
5 Members might have.

6 SENATOR CRAVEN: Very well.

7 Do any of the Members have a question? Does anyone in
8 the audience wish to speak to this item?

9 Yes, sir, would you come forward, please. State your
10 name.

11 MR. COUTIN: My name is Gary Michael Coutin. I'm an
12 alumnus of Hastings.

13 SENATOR CRAVEN: Would you spell your last name, please.

14 MR. COUTIN: C-o-u-t-i-n.

15 I'm an alumnus of Hastings, Class of '72.

16 I oppose the confirmation of Marvin Baxter to the Board
17 of Directors of Hastings College because the Senate doesn't have
18 the power to confirm the appointments or make appointments, and
19 the Governor does not have the power to make appointments to the
20 Directors of Hastings College of the Law.

21 I've submitted a number of documents to the Court -- to
22 this body, to prove that the Act of 1980, specifically amendment
23 23 to the Act of 1980, which empowers the Governor to appointment
24 Directors to Hastings College of Law, is in fact
25 unconstitutional, and everyone knows it to be unconstitutional.

26 The appointment today is illegal and unconstitutional,
27 and is part of a continuing conspiracy to conceal the problems at
28 Hastings College of Law, to fix them rather than to resolve them.

1 I'm going to give a copy of these documents to the body
2 so that you may read them. I just want to point out a few of
3 them that are relevant quickly to explain to you why it's
4 unconstitutional, what you're doing today.

5 SENATOR CRAVEN: Before you begin, if I may, I have a
6 feeling that these are long-held feelings that you have as --

7 MR. COUTIN: No, these are not feelings.

8 SENATOR CRAVEN: Well, they are feelings based on what
9 you have gleaned from what you contend to be the law applicable
10 in this instance.

11 MR. COUTIN: It's what Judge Hastings said.

12 SENATOR CRAVEN: Would you say that again?

13 MR. COUTIN: It's what Judge Hastings said.

14 SENATOR CRAVEN: Well, be that as it may, you didn't
15 just think of this today?

16 MR. COUTIN: Absolutely not.

17 SENATOR CRAVEN: You've had that feeling for a long
18 time.

19 MR. COUTIN: I've confirmed that by looking at the
20 documents that he was correct.

21 SENATOR CRAVEN: But you didn't do that on Monday.

22 MR. COUTIN: On Monday, no, I didn't do it yesterday.

23 SENATOR CRAVEN: What I'm trying to say is, the opinion
24 that you're about to state, you formed in your facile mind some
25 time ago.

26 MR. COUTIN: Over a number of years, yes.

27 SENATOR CRAVEN: Very well, that's all I wanted to know.
28

1 MR. COUTIN: Okay.

2 First of all, the organic Act of Hastings makes Hastings
3 to be a self-perpetuating trust whose members fill their own
4 vacancies. The organic Act of Hastings has never been repealed.

5 Second, the receipt for the \$100,000 that Judge Hastings
6 gave the State of California shows that Hastings College of the
7 Law is a private trust. The Senate, to my knowledge, doesn't
8 confirm appointments to other private trusts; why to Hastings
9 College?

10 Next, we have the language of AB 3343, only one page --
11 probably less than one percent of that bill -- had anything to do
12 with Hastings College of the Law. The amendment 23, which
13 changed the Board of Directors of Hastings College of the Law,
14 was made at the last minute, slipped into another bill that no
15 one could examine and see what was really going on in terms of
16 changing the Board of Directors of Hastings College of Law.

17 Most relevantly, the Legislative Counsel memo on
18 September 26th of 1980 says that the bill, AB 3343, is
19 unconstitutional for the foregoing reasons, which is to say that
20 the Supreme Court of the State of California, in 1886, said that
21 the Legislature of the State of California could not alter the
22 governance of the University of California because of the
23 Constitution of the State of California. And that is Article 9,
24 Section 9, bars the Legislature from altering the governance of
25 the University of California, and that means Hastings College.

26 Now, the relevant paragraph says in this Legislative
27 Counsel memo:

28

1 "There is no subsequent reported
2 decision, nor has there been any
3 change in the applicable law
4 governing the relationship between
5 Hastings College of the Law and
6 the University of California since
7 the decision in Kewen might result
8 in a different decision if that case
9 were to be tried today. Thus, it is
10 our opinion that the decision in
11 Kewen is still fundamentally sound,
12 and that Hastings College of the Law
13 must be deemed an integral part of
14 the University of California for the
15 purposes in question."

16 In other words, the Legislature can't alter the governance of the
17 University of California.

18 The Dean of Hastings wrote in an article that he agreed
19 that AB 3343 to be unconstitutional. And in a relevant paragraph
20 he says:

21 "It would be difficult to overstate
22 the impact which the arrival of
23 AB 3343 brought to our community.
24 Even though it was midsummer and
25 people were pursuing their own
26 interests, the reaction was swift,
27 strong and unanimously negative.
28

1 There was nothing fainthearted
2 or muted about the intent of this
3 legislation. It simply brushed
4 the Board of Directors aside for
5 replacement by a new group to be
6 appointed by the Governor after
7 January 1st. Among the casualties
8 was the Chief Justice of California
9 whose ex-officio board membership
10 was to be repealed. The only sur-
11 vivor would be Director Harry H.
12 Hastings, the current occupant of
13 the original family seat which was
14 left untouched."

15 SENATOR CRAVEN: May I interrupt you just for a moment?
16 Senator Petris.

17 SENATOR PETRIS: I didn't catch what you were reading
18 from. Is that a brief?

19 MR. COUTIN: This is an article that was sent to the
20 Hastings Community; it's called the Hastings Community. It was
21 sent to all the alumni of Hastings. Since I was an alumni of
22 Hastings, I got a copy of this article by Bert Prunty.

23 SENATOR PETRIS: The last time you appeared before us,
24 you described some litigation that you had initiated.

25 MR. COUTIN: That's right.

26 SENATOR PETRIS: Is this part of that litigation, this
27 objection on the ground that it's a private trust? Is that issue
28 before the court now?

1 MR. COUTIN: Yeah, but they won't decide the issue
2 because the alumni of the University of California habitually fix
3 this case so they can't be litigated.

4 The alumni of California sit as judges, such as Marvin
5 Baxter, and the next appointment is William Channel. He sat as a
6 Director -- he sat as a judge. You're going to appoint him as
7 Director of Hastings. He sat on the case that involved Hastings
8 College, which was the relocation case.

9 So, because the alumni of the University of California,
10 namely and specifically Hastings College, sit as judges, they
11 will not allow this issue to be litigated in any court.

12 So I present the documents to here because what you do
13 today is unconstitutional. It's a violation of Article 9,
14 Section 9. Legislative Counsel, your Legislative Counsel, your
15 attorney, says so. The Attorney General says so. The Supreme
16 Court says so. Malcolm Lucas says so. The Board of Directors of
17 Hastings say so.

18 SENATOR PETRIS: When did Malcolm Lucas say?

19 MR. COUTIN: When I disqualified Malcolm Lucas in a case
20 pending in front of the Supreme Court on December 7th, 1988, I
21 disqualified him as Chief Justice -- I disqualified him because
22 he was the President of Hastings College of the Law under the
23 organic Act of Hastings. He disqualified himself.

24 Now, there's only one rationale that could possibly be,
25 and that's because he understands that the AB 3343 is
26 unconstitutional, and he still is the President of Hastings.

27
28

1 SENATOR PETRIS: Well, I don't think it'd be limited to
2 that. If he's the President of the institution which is being
3 challenged, then he can't hear the case. It's as simple as that.

4 MR. COUTIN: And he recused himself.

5 SENATOR PETRIS: That doesn't verify the other
6 underlying theory, which may well be valid.

7 MR. COUTIN: May well be valid because no one has
8 overturned Kewen's case since the Supreme Court decision, 1886.
9 Legislative Counsel said three or four times -- here's another
10 memo written in '76, August the 4th, '76, 13236, which says the
11 same thing, that the law hasn't changed since Kewen's case.
12 Here's another memo dated June 28th, 1977, 9484, that says that
13 the law is the same since Kewen's case, 1886. And another memo,
14 March 27th, 1979, numbered 4913, in reference to Vasconcellos'
15 bill. Vasconcellos tried to change the Board of Directors of
16 Hastings College; he was told you cannot change the Board of
17 Directors of Hastings College; it's older than the Constitution.
18 It's imbedded in the Constitution indirectly by reference to the
19 University of California, Article 9, Section 9.

20 When Article 9, Section 9 went into effect in May of
21 1879, it constitutionalized the University of California's
22 governance and prevented the Legislature from penetrating that
23 umbrella of University autonomy.

24 So, the Act of 1980 is unconstitutional. And it was
25 known to be unconstitutional by the people who proposed the Act
26 of 1980, the amendment 23. That is John Knox, Class of '52,
27 Hastings Class of '52, and Willie Brown were the basic backers of
28

1 the changes in the Board of Directors of Hastings College. They
2 wanted to change Hastings College before anybody on the outside
3 got a hold on to the Board, because what Willie and John Knox
4 knew is that the Board of Directors of Hastings College had
5 embezzled a million dollars.

6 And I know that they know that because there's a letter
7 written to Senator Petris, dated May 27th, 1980, in which they
8 say we need capital to augment the capital budget of Hastings by
9 \$1.05 million.

10 Now we have the Auditor's General's Report, six years
11 later, October, 1986, which says that Hastings has diverted \$1.05
12 million in restricted funds to unauthorized uses; meaning, these
13 people want the money to be put back before anybody found out
14 about it. And they knew something was wrong. There was a
15 shortage at Hastings College, and they knew it.

16 They went on the Board of Directors of Hastings College
17 and they didn't say a word for six years. All the people that
18 the Senate has been appointing and confirming for six years have
19 not opened their mouths about the money being missing. It was
20 not until there was an independent audit instigated by Art Agnos
21 that the money was discovered missing.

22 Now, these are your public officials, so-called public
23 officials, because what you don't understand is that Hastings is
24 a private trust, a self-perpetuating private trust. And since
25 the turn of the century, only the alumni of Hastings College has
26 sat on the Board of Directors of Hastings College.

27
28

1 And now you're going to appoint another alumni of
2 Hastings College, part of the old-boy network, who's going to be
3 protecting Hastings College by not being forthright with the
4 Legislature, and by giving the judicial power -- that is, cases
5 can be decided involving Hastings College by Directors of
6 Hastings College who sit as judges. That's the problem.

7 That's why there's no resolution to this case. I'm in a
8 courtroom, and I can't litigate it because the alumni don't want
9 this case to go forward.

10 So, Marvin Baxter appointed William Stein to the
11 Municipal Court. And that and an interview by Marvin Baxter was
12 good enough to get William Stein not only to the Municipal Court,
13 but to the Superior Court, Judicial Council, and to the Court of
14 Appeals.

15 SENATOR CRAVEN: May I just suggest that Mr. Baxter did
16 not appoint anyone.

17 MR. COUTIN: Mr. Baxter was the Appointments Secretary
18 when --

19 SENATOR CRAVEN: But he definitely does not have the
20 authority to appoint. He did not have the authority to appoint.

21 MR. COUTIN: Yes, William Stein stated that the only
22 person that ever interviewed him for the job was Marvin Baxter.

23 SENATOR CRAVEN: Interviews and appointments are two
24 different things.

25 MR. BAXTER: I might also add that Mr. Stein was the
26 head of the Criminal Unit of the Attorney General's Office,
27 working under the direct authority of Attorney General George
28

1 Deukmejian for a number of years. So, he had a direct
2 relationship with Attorney General Deukmejian, and that's why he
3 was appointed.

4 SENATOR CRAVEN: Thank you.

5 MR. COUTIN: Yes.

6 Now, William Stein has admitted that Hastings attempted
7 to bribe him in the course of my eviction. I was evicted for
8 practicing law from property that Hastings acquired for the
9 purpose of building a building where lawyers could practice law.
10 If that sounds absurd, that's the absurd position that Hastings
11 took.

12 SENATOR PETRIS: I have another question.

13 MR. COUTIN: Yes.

14 SENATOR CRAVEN: Senator Petris.

15 SENATOR PETRIS: I'm trying to get to the bottom of your
16 contention.

17 Since you contend it's a private trust, who is that
18 should be making the appointments?

19 MR. COUTIN: Oh, who should be making the appointments.

20 At this point in time, it's Humpty-Dumpty time. It's
21 off the wall. Nobody makes appointments. The Board of Directors
22 of Hastings College is terminated, and the Regents take over, the
23 way Judge Hastings requested this body to --

24 SENATOR PETRIS: It's a private trust.

25 MR. COUTIN: Yes.

26 SENATOR PETRIS: The Regents don't have authority to
27 take it over either.
28

1 MR. COUTIN: Yes, yes. Yes, they do, because Judge
2 Hastings gave the State of California \$100,000 to establish this
3 trust. It was to be held by the State of California.

4 The money's missing. It's a breach of trust.

5 I have written to the Treasurer, the Controller and the
6 Department of Finance. They all deny the money is there. There
7 is no longer a trust of Hastings.

8 SENATOR PETRIS: All right, now, you're saying we can't
9 appoint to this body because that body is a private trust. So
10 who does the appointing under the private trust, which no longer
11 exists because the money isn't there?

12 MR. COUTIN: You've got compounded problems where you've
13 tried to take care of one problem by adding on another layer of
14 problems without resolving the original problem.

15 The original problem is the failure of Hastings College
16 to become an integral part of the University of California, which
17 was what Judge Hastings intended. He says it's not merely a
18 college, but affiliated with a great university. But it never
19 affiliated because affiliation means subordination, and these
20 lawyers, who are the most powerful lawyers in the State of
21 California, refuse to be in subordination to anybody, anybody,
22 much less to the Regents of the University.

23 SENATOR CRAVEN: Are you quoting a legal definition of
24 affiliation?

25 MR. COUTIN: Yes, Government Code 5131 -- Corporations
26 Code 5131 and 5064, both talk about parent and affiliate in terms
27 of one being subordinate to the other.
28

1 SENATOR CRAVEN: Parent and affiliate.

2 MR. COUTIN: Yes, and --

3 SENATOR CRAVEN: Affiliation to me does not necessarily
4 connote subordination.

5 MR. COUTIN: But it meant that to Judge Hastings, and he
6 said so in his lifetime. He definitely said so in his lifetime.

7 SENATOR CRAVEN: I don't like to jump into your
8 arguments, which are very, very well presented to say the least,
9 but do you have, aside from the point which you've made and I
10 think you've made it very well, do you have anything that you
11 want to say in a more personal or cogent way as it relates to Mr.
12 Baxter, Justice Baxter?

13 MR. COUTIN: Only that the appointment of Marvin Baxter
14 to the Board of Directors of Hastings College will not resolve
15 the problems at Hastings College. It will fix the problems at
16 Hastings College. It gives Hastings College political leverage,
17 without giving Hastings College any guidance as to its structural
18 integrity.

19 Marvin Baxter is being put on the Board of Directors of
20 Hastings College because he is part of this old-boy network which
21 has habitually covered up for Hastings College and its corrupt
22 activities, and its refusal to become part of the University of
23 California for over a century. That's why he's being put on the
24 Board of Directors.

25 Now, I don't know any State entity that is entirely
26 composed of the alumni of that entity. Only Hastings College.
27 That's what proves to me that even though you've changed the law,
28

1 that Hastings Colleges continues to be a private entity, a self-
2 perpetuating private trust, that it always was.

3 Now, I don't know how his name got into consideration.
4 But the fact is that in 1980, a group tried to put a Mexican-
5 American on the Board of Directors of Hastings College, and there
6 were three openings, and they couldn't get one. Hastings College
7 of Law Directors have been always 100 percent White, 100 percent
8 male, 100 percent alumni of Hastings College.

9 There's only two exceptions. The two exceptions were:
10 Rose Bird because she was a Supreme Court Justice; Gordon Sproul,
11 who was a U.C. alumni not a Hastings alumni; and Charlene
12 Mitchell, a woman was put on the Board of Directors of Hastings
13 College of the Law very late, after all the money was discovered
14 diverted.

15 So that up to the time the money was diverted, it was
16 all White, all male, and all alumni. And Marvin Baxter fits the
17 mold.

18 So, in terms of having a public body, or diversity, you
19 have no diversity reflecting the State of California. What you
20 have is the old-boy network still at work, putting its people on,
21 and giving it political leverage.

22 And again, you would be, by confirming, performing an
23 unconstitutional act in violation of Article 9, Section 9. You
24 should just read what your Legislative Council stated, and you
25 know that the Act of 1980, AB 3343, to be unconstitutional.

26 SENATOR CRAVEN: Very well, thank you very much, sir.
27
28

1 If you want to leave that with the Sergeant, he'll take
2 it. Thank you.

3 Is there anyone else in the audience who wishes to make
4 comment? There appears to be none.

5 Any questions of the Members of the Committee?

6 MR. BAXTER: I'd like to make one clarification --

7 SENATOR CRAVEN: Please do.

8 MR. BAXTER: -- of fact, if I might.

9 First of all, John Sproul, who was appointed by Governor
10 Deukmejian, is not a Hastings graduate. He's a graduate of U.C.
11 Berkeley, Boalt Hall. So the representation that all of the
12 Board members are Hastings graduates is not correct.

13 And the other factual point of fact that I'd like to
14 clarify is that Charlene Mitchell, who was the first woman
15 appointed to the Hastings Board, was appointed by Governor
16 Deukmejian.

17 I would like to clarify the record in that regard.

18 SENATOR CRAVEN: Thank you very much, sir.

19 SENATOR BEVERLY: Mr. Chairman.

20 SENATOR CRAVEN: Yes, sir.

21 SENATOR BEVERLY: I'll make one observation before I
22 make a motion.

23 We have a letter in our file from Senator Rose Ann Vuich
24 recommending the confirmation of Mr. Baxter. She has never
25 supported an old-boys network ever.

26 I'm pleased to make the motion that we recommend the
27 appointment to the full Senate.

28

1 SENATOR CRAVEN: Senator Beverly moves that the
2 confirmation of the appointment of Marvin R. Baxter as a member
3 of the Board of Directors, Hastings College of Law.

4 Is there any comment, anything further?

5 SENATOR PETRIS: I think he makes a very good case on
6 the surface, but it puts me in a dilemma.

7 I think Justice Baxter is immanently qualified by virtue
8 of his experience before he ever got here, before he ever worked
9 for the Governor's Office, and so forth.

10 But I do want to explore the theory. I'm going to go
11 back and read the other briefs that he left with us last time.

12 Without hearing another attorney on the other side who's
13 briefed it, I'd say he makes an excellent case.

14 SENATOR CRAVEN: He certainly has researched it very
15 thoroughly and documented it in the same fashion.

16 I have only one question, and that is that I'm hoping
17 I'm correct in saying that you're a graduate of the Stanford
18 School of law; are you not?

19 SENATOR PETRIS: Yes, can I get on that board? I guess
20 not.

21 (Laughter.)

22 SENATOR CRAVEN: I don't want to get a Hastings man
23 involved, I'll tell you that right now.

24 Very well, there being no further discussion, call the
25 roll, please.

26 SECRETARY WEBB: Senator Beverly.

27 SENATOR BEVERLY: Aye.
28

1 SECRETARY WEBB: Senator Mello.

2 SENATOR MELLO: Aye.

3 SECRETARY WEBB: Senator Petris.

4 SENATOR PETRIS: Aye.

5 SECRETARY WEBB: Senator Craven.

6 SENATOR CRAVEN: Aye.

7 SECRETARY WEBB: Senator Roberti.

8 Four to zero.

9 SENATOR CRAVEN: The measure's out four to zero.

10 Thank you very much.

11 MR. BAXTER: Thank you.

12 SENATOR CRAVEN: Next is John E. Gallagher, Member and
13 Chair, California Waste Management Board.

14 Mr. Gallagher, if you will come forward and tell us why
15 you feel that you're qualified for the position. We had someone
16 speak on your behalf earlier. I don't know if you were in the
17 room at the time.

18 MR. GALLAGHER: Yes, I was. I was quite surprised. It
19 was not rehearsed.

20 SENATOR CRAVEN: Senator Boatwright spoke in glowing
21 terms of you.

22 MR. GALLAGHER: That's very nice of him, and I
23 appreciated it very much.

24 I am John Gallagher. I am a member of the Board of the
25 Waste Management Board, and for the last 11 months I have been
26 acting as Chair.

27

28

1 I've often thought about my qualifications inside my
2 head, but this is the first time I've ever had to articulate them
3 publicly as to why I think I'm qualified for anything. I suppose
4 I always suspected that that craggy face and that balding, gray
5 hair would show that I've been in the vineyards quite a bit, and
6 that would somehow rub off in the form of experience.

7 But in thinking it through, I'd like to tell you that 17
8 years ago, I stood in the Governor's conference room behind
9 then-Governor Ronald Reagan and watched him sign Senate Bill 5 of
10 the 1972 session, which created the Waste Management Board. To
11 those of us who were in the room at that time, that was the end
12 of what appeared to be a very arduous and long task, getting that
13 bill through the Legislature and seeing it put in effect.

14 A few weeks later, I was privileged to be asked by that
15 same Governor to serve on the Resource and Recovery Advisory
16 Council of that Board, which was created in the same piece of
17 legislation. I was asked to represent the metal container
18 manufacturing industry, and we were to guide and recommend to the
19 Board those programs that were needed to implement the thrust of
20 that legislation.

21 I served on that Resource and Recovery Advisory Council
22 until it sunsetted, which was two or three years, and I found
23 myself, a couple of years later, leading a group of well known
24 business leaders into Senator Nejedly's office to ask him to
25 carry a piece of legislation that would help us fund some of
26 these programs that the Resource and Recovery Council had
27 envisioned and had recommended.

28

1 We again had a very long and arduous journey, but it
2 resulted in the passage of Senate Bill 650, which provided some
3 money for grants and loans to promote recycling, resource
4 recovery, waste reduction, and other points of transformation.

5 I guess it seems that in the last 17 years, I've had a
6 continuing experience with this Board. I've sort of lived with
7 it. I've watched it, and in 1985, the Governor selected me to
8 become a member of that Board.

9 I have studied its actions, and when the Governor
10 interviewed me to determine whether or not I would qualify to be
11 Chair of the Board, he asked me to express somewhat the same
12 things that I'm expressing here to you today: what did I think
13 was needed on the Board to make it an effective body, to change
14 its image, and to do what he thought it needed to be focused.

15 And I suggested to him that 47 years of experience in
16 the private sector as a manager, and I spent 47 years with the
17 Continental Can Company, pretty well qualified me to work in the
18 field of leadership and human relations and to help develop
19 focus.

20 I'm very proud to tell you that I think in the last 11
21 months, we have gained a focus. Our Board and our staff are well
22 focused on the needed things to be done, and we are going forward
23 with them without waiting for any additional legislation in this
24 field. We feel current law provides ample direction to us to
25 work in, what is now the buzz phrase of the last couple of years,
26 integrated waste management. And we are already going ahead in
27 that direction.
28

1 We have done a remarkable amount of work in recycling
2 and resource recovery. We are currently involved in putting on a
3 series of workshops throughout the State of California that will
4 help local government officials plan how they can meet the
5 demands in their county solid waste management plan to recycle at
6 least 20 percent of their waste. And we think we're well along
7 in that. Some of the material that we're presenting is new and
8 fresh, and we are getting excellent attendance -- 80, 90 people
9 at each of the workshops. These have been going on -- there is
10 one going on right now in Sacramento. There are two more
11 scheduled in Santa Barbara later next month, and we think they
12 are having a great deal of beneficial effect.

13 I think my experience of working with the Board over all
14 these years, trying to keep current on the problems of solid
15 waste management in this state, has immanently qualified me to be
16 the leader of this Board.

17 The Board when I joined it, I think, had two problems.
18 One, we had some internal conflicts because we were not a focused
19 group. I'm happy to tell you that I think the internal conflicts
20 are a thing of the past. And it was my judgment that we had to
21 cure our in-house problems before we could do anything to address
22 the change of our image on the outside.

23 We are well focused. We're going ahead. We're a couple
24 of members short right at the moment, including the one that is
25 appointed by your -- this body, and one that is appointed by the
26 Speaker. But we are going ahead, and hopefully, those positions
27 will be filled shortly, and we will be able to then go full steam
28 ahead.

1 So, that's about all I can tell you as to my
2 qualifications.

3 SENATOR CRAVEN: Thank you very much, Mr. Gallagher.

4 Is there anyone in the audience who wishes to comment?
5 There appears to be none.

6 Any comments from the Senators?

7 SENATOR MELLO: Move the recommendation the Floor.

8 SENATOR CRAVEN: Senator Mello moves the confirmation to
9 the Floor of John E. Gallagher, Member and Chairman of the
10 California Waste Management Board.

11 No further comment, call the roll.

12 SECRETARY WEBB: Senator Beverly.

13 SENATOR BEVERLY: Aye.

14 SECRETARY WEBB: Senator Mello.

15 SENATOR MELLO: Aye.

16 SECRETARY WEBB: Senator Petris.

17 SENATOR PETRIS: Aye.

18 SECRETARY WEBB: Senator Craven.

19 SENATOR CRAVEN: Aye.

20 SECRETARY WEBB: Senator Roberti.

21 Four to zero.

22 MR. GALLAGHER: Thank you, gentlemen.

23 SENATOR CRAVEN: Four to zero.

24 Thank you very much, Mr. Gallagher.

25 (Thereupon this portion of the Senate

26 Rules Committee hearing was terminated

27 at approximately 3:55 P.M.)

28 --oo0oo--

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That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

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EVELYN MIZAK
Shorthand Reporter

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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA

STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, JULY 5, 1989

1:55 P.M.

Reported by:

Evelyn Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR DAVID ROBERTI, Chairman
SENATOR WILLIAM CRAVEN, Vice Chairman
SENATOR ROBERT BEVERLY
SENATOR HENRY MELLO

MEMBERS ABSENT

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer
PAT WEBB, Committee Secretary
RICK ROLLENS, Consultant on Bill Referrals
NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

MAURICE M. HANNIGAN, Commissioner
California Highway Patrol
BRUCE K. NESTANDE, Member
California Transportation Commission

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P R O C E E D I N G S

--oo0oo--

CHAIRMAN ROBERTI: Governor's Appointees, Maurice J. Hannigan, Commissioner, California Highway Patrol.

MR. HANNIGAN: Good afternoon, Mr. Chairman.

I'm Maurie Hannigan, and on the 23rd of February, I was appointed Commissioner of the California Highway Patrol by Governor Deukmejian. I come before you today asking for confirmation of that appointment.

With your permission, I will make a very brief opening statement.

I have been a member of the California Highway Patrol for 25 years, and I joined the Department for one specific purpose and that was to provide public service. And now that I am in the position where I can enhance that further, I am committed to enhancing the level of public service provided by the California Highway Patrol.

I have some specific objectives for the Department in the area of public service. One is to hold officers more accountable for beat accountability and concentrate on those violations that are costing the lives of California's citizens. And that would be specifically in the area of DUI, speed, and nonuse of seatbelts.

We are also going to conduct a pilot project wherein we will extend the office hours of our offices because of two spouses working in so many families today. We are looking at, hopefully, opening some of the major offices in the State four hours on Saturday also.

1 I think the Department has a very aggressive affirmative
2 action program. I think we've done very well in that last two
3 years especially, and overall, I'm looking forward to the
4 challenges of running the Highway Patrol.

5 CHAIRMAN ROBERTI: Senator Craven.

6 SENATOR CRAVEN: Mr. Hannigan, could you tell us your
7 feeling relative to the sobriety checkpoints and their
8 effectiveness?

9 MR. HANNIGAN: Senator, sobriety checkpoints are good,
10 not necessarily for the apprehension of drunk drivers, but
11 they're good for getting the message out to the public and
12 causing people to take a second thought when they're going to be
13 drinking and whether they're going to drive.

14 When we first did checkpoints a couple years ago as a
15 pilot, we got 80-90 percent support from the public based on
16 surveys we conducted. We also realized a reduction in the number
17 of DUI accidents caused in those commands that they were used.

18 But checkpoints have to be used with a certain amount of
19 discretion and on a limited basis, because they will not be
20 effective if you do not get the support of the general media.

21 SENATOR CRAVEN: Am I correct in assuming that
22 checkpoints have now passed what I shall refer to as a
23 constitutional test?

24 MR. HANNIGAN: Yes, sir, they have. The U.S. Supreme
25 Court has held that they are constitutional if you follow some
26 very strict guidelines.
27
28

1 SENATOR CRAVEN: I see, which are implemented as policy,
2 I suppose?

3 MR. HANNIGAN: You have to have very rigid controls in
4 the checkpoints, and you have to have a plan set out to how
5 you're going to select the vehicles to pull in. And you have to
6 -- you can only use them in an area where you have a demonstrated
7 DUI problem, either accidents or a high frequency of arrests.

8 SENATOR CRAVEN: In your vast experience in dealing with
9 inebriated motorists, would you have any thought relative to the
10 reduction of the blood alcohol level? Would that provide any
11 great advantage to us or the motoring public as a whole?

12 MR. HANNIGAN: Senator, we've supported the .08
13 provision that was introduced both here in the State of
14 California, and as a member of the International Association of
15 Chiefs of Police, I supported reducing the level to a .08.

16 Now, on a national front, there are only two states that
17 have .08. There has been a call to drop it down to .05. I don't
18 have any solid information on .05, but anything below a .08, I'd
19 have to take a look at and see what the impacts would be overall.

20 SENATOR CRAVEN: What is it today?

21 MR. HANNIGAN: It's .10; that is basically the national
22 norm.

23 SENATOR CRAVEN: Do you think that that would provide a
24 greater seine to gather in more fish, if I can use that analogy,
25 that would make it worthwhile?

26 MR. HANNIGAN: I think it would. I think that's why we
27 supported .08.

1 Right now, here in California, there's a rebuttable
2 presumption between .05 and .10 if the officer can show that the
3 individual was influenced by the alcohol they had consumed.

4 SENATOR CRAVEN: I have only one other question, Mr.
5 Chairman.

6 Tell me, if you will, about the aerial surveillance.
7 How has that worked for you?

8 MR. HANNIGAN: It works very well. We are adding
9 additional aircraft right now. The majority of the aircraft that
10 we have are for speed enforcement, and they're federally funded
11 through federal 402 funds.

12 Aerial surveillance in speed enforcement is very
13 effective in the area that it's used. Obviously, with the size
14 of the state that we have, we cannot cover it all. And we have
15 noticed that it will drop, the speeds will drop, for a given
16 period of time, but we have to continually go back and reinforce
17 that through another enforcement application.

18 SENATOR CRAVEN: Do you have on sort of a patrol basis;
19 in other words, the aircraft fly a particular route in a regular
20 sense, or is it random?

21 MR. HANNIGAN: We do have aircraft, Senator, assigned
22 for patrol only. They do work some speed, but their primary
23 mission is patrol.

24 The majority of those are used in some of the desert
25 regions of the state that are long, extended beats where it would
26 take an officer in a car, perhaps, more than -- almost take his
27 entire shift to get from one end of the beat to the other. With
28

1 the aircraft, we're able to go out and find disabled motorists
2 and provide assistance a lot quicker than we can with strictly
3 patrol vehicles.

4 SENATOR CRAVEN: I would just like to mention for the
5 record that they were good enough in finding me one day out in
6 the Palm Springs area as I was trying to get to Blythe for a
7 meeting. The officer who, I suppose, responded to the aerial
8 surveillance got me and stopped me, and told me that no matter
9 how fast I got, I couldn't get to where I was going in time for
10 lunch.

11 (Laughter.)

12 SENATOR CRAVEN: Thank you very much.

13 MR. HANNIGAN: Thank you, Senator.

14 CHAIRMAN ROBERTI: Any other questions?

15 Is there any opposition in the audience?

16 SENATOR CRAVEN: Move Mr. Hannigan.

17 CHAIRMAN ROBERTI: Senator Craven moves Mr. Hannigan's
18 confirmation to the Senate.

19 It's good to see somebody promoted from the ranks of the
20 Highway Patrol.

21 MR. HANNIGAN: Thank you, Senator.

22 CHAIRMAN ROBERTI: I want to congratulate you.

23 MR. HANNIGAN: Thank you very much.

24 CHAIRMAN ROBERTI: Secretary will call the roll.

25 SECRETARY WEBB: Senator Beverly.

26 SENATOR BEVERLY: Aye.
27
28

1 SECRETARY WEBB: Senator Mello. Senator Petris.
2 Senator Craven.

3 SENATOR CRAVEN: Aye.

4 SECRETARY WEBB: Senator Roberti.

5 CHAIRMAN ROBERTI: Aye.

6 The vote is three to nothing; confirmation is confirmed.

7 MR. HANNIGAN: I want to thank you, Mr. Chairman, and
8 each Member of the Committee. Thank you very much.

9 SENATOR CRAVEN: Thank you.

10 CHAIRMAN ROBERTI: Very good to see you.

11 Senator Beverly moves a call so Senator Mello can be
12 added. Without objection, such will be the order.

13 Bruce K. Nestande, Member of the California
14 Transportation Commission.

15 Nice to see you.

16 MR. NESTANDE: Nice to see you, too, Senator Roberti and
17 Members.

18 There really isn't a whole lot to say. We've known each
19 other for a long time.

20 The Commission is a great Commission, I think. I think
21 it performs a very good function. It's my privilege to have been
22 appointed now for the third term, and I respectfully request your
23 confirmation and recommendation.

24 CHAIRMAN ROBERTI: Very good.

25 Is there any discussion or debate? Any opposition in
26 the audience?

27 SENATOR CRAVEN: Move Mr. Nestande.
28

1 CHAIRMAN ROBERTI: Senator Craven moves Mr. Nestande's
2 confirmation. This will be easy.

3 Secretary, call the roll.

4 SECRETARY WEBB: Senator Beverly.

5 SENATOR BEVERLY: Aye.

6 SECRETARY WEBB: Senator Mello. Senator Petris.
7 Senator Craven.

8 SENATOR CRAVEN: Aye.

9 SECRETARY WEBB: Senator Roberti.

10 CHAIRMAN ROBERTI: Aye.

11 Senator Beverly moves a call so Senator Mello can be
12 added. Without objection, such will be the order.

13 MR. NESTANDE: I have one final comment, and that's to
14 thank you all for the leadership that was exercised this past
15 week in putting before the people of California a vote to
16 increase the gasoline tax. It's much needed, and your leadership
17 for doing this is to be commended.

18 Thank you.

19 CHAIRMAN ROBERTI: Thank you. Now we've got to go out
20 and campaign for it.

21 MR. NESTANDE: Yes, right.

22 CHAIRMAN ROBERTI: Thank you.

23 (Thereupon this portion of the Senate
24 Rules Committee hearing was terminated
25 at approximately 2:05 P.M.)

26 --oo0oo--
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CERTIFICATE OF SHORTHAND REPORTER


I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

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5th day of July, 1989.


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Shorthand Reporter

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SENATOR WILLIAM CRAVEN, Vice Chairman

SENATOR ROBERT BEVERLY

SENATOR HENRY MELLO

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

JOSEPH A. ACETO, Member
Board of Prison Terms

SENATOR ROBERT PRESLEY

KATHLEEN NORRIS, Chief Deputy Director
Department of Social Services

ALBERT C. TAUCHER, Member
Fish and Game Commission

GLADYS SARGENT
Pets and Pals

VIRGINIA HANDLEY
The Fund for Animals

JOYCE PIEPER
Mercy Crusade, Inc.

BILL YEATES
Mountain Lion Preservation Foundation

APPEARANCES (Continued)

1
2 SENATOR ART TORRES

3 JAMIE S. BAILEY, Member
4 Youthful Offender Parole Board

5 VICTOR G. WISEHART, JR., Member
6 Youthful Offender Parole Board
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P R O C E E D I N G S

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CHAIRMAN ROBERTI: We'll go to Governor's Appointees now, Joseph A. Aceto, Member of the Board of Prison Terms.

MR. ACETO: Mr. Chairman, Members of the Committee, Joseph A. Aceto, A-c-e-t-o.

CHAIRMAN ROBERTI: Why don't you tell us why you feel you're qualified to assume this position?

MR. ACETO: This is the third time.

CHAIRMAN ROBERTI: That's right.

MR. ACETO: I have six and a half years' experience now, and I want to go back on.

CHAIRMAN ROBERTI: Any discussion or debate? Is there any opposition to Mr. Aceto?

SENATOR CRAVEN: Move Mr. Aceto's appointment.

CHAIRMAN ROBERTI: Senator Craven moves Mr. Aceto's appointment.

Senator Presley.

SENATOR PRESLEY: I just wanted to show up here quickly and indicate my support for Mr. Aceto.

He's been on this Board now probably too long, but he continues to do a great job, and I would strongly support his reconfirmation.

CHAIRMAN ROBERTI: Just like we've been in office too long.

SENATOR PRESLEY: Don't say that.

(Laughter.)

CHAIRMAN ROBERTI: Is there any further discussion or debate? Secretary, call the roll.

SECRETARY WEBB: Senator Beverly.

SENATOR BEVERLY: Aye.

SECRETARY WEBB: Senator Mello.

SENATOR MELLO: Aye.

SECRETARY WEBB: Senator Petris. Senator Craven.

SENATOR CRAVEN: Aye.

SECRETARY WEBB: Senator Roberti.

CHAIRMAN ROBERTI: Aye.

The vote is four to nothing; Mr. Aceto's recommended to the Floor.

MR. ACETO: We thank the Committee very much.

CHAIRMAN ROBERTI: Thank you.

Senator Torres wanted to introduce Jamie Bailey, Member of the Youthful Offender Parole Board.

Ms. Bailey, why don't you come forward and we'll try to find Senator Torres.

She's not here. All right, that's fine. We can go down to Kathleen Norris, Chief Deputy Director, Department of Social Services.

MS. NORRIS: Good afternoon, Members of the Committee. Kathleen Norris.

CHAIRMAN ROBERTI: We'll ask you what we ask all the Governor's Appointees, and that is why you feel you're qualified to assume this position?

1 MS. NORRIS: Well, as Chief Deputy Director, I'm really
2 not going to be assuming that position. I'm actually technically
3 going to be Deputy Director for Public Affairs, and I have been
4 acting as the Chief of the Public Information Office for four
5 years. So, I have had experience at the Department in all of the
6 departmental public affairs. It would just be an expansion of
7 that position.

8 CHAIRMAN ROBERTI: Are there any questions of Ms.
9 Norris?

10 Is there any opposition in the audience?

11 SENATOR CRAVEN: Move confirmation of Ms. Norris.

12 CHAIRMAN ROBERTI: Senator Craven moves confirmation.

13 You do administer the GAIN program, which is relatively
14 controversial at times. Maybe I should ask you a couple
15 questions in that area because it's the only chance we have to
16 find out what the Department is doing.

17 What type of information do you think can be done to
18 inform clients and to inform staff at the county level about the
19 various developments in GAIN? We find that one problem is just
20 the understanding of what is available; it seems to get lost.

21 MS. NORRIS: Well, we have a number of methods of
22 marketing the GAIN program, if you will, through the State level,
23 but each county also has their own public affairs program in
24 place for their GAIN program.

25 So, it's a combination effort. We have done some work
26 in Speaker's Bureau type of things. We have numerous
27 publications and an extensive outreach effort for the GAIN
28 program. It's a very important program.

1 CHAIRMAN ROBERTI: You also, just in case anybody
2 doesn't know, are highly recommended by a former colleague of
3 ours, so we would like to recognize his presence here, Senator
4 Speraw. Good to have you with us again.

5 Secretary, call the roll.

6 SECRETARY WEBB: Senator Beverly.

7 SENATOR BEVERLY: Aye.

8 SECRETARY WEBB: Senator Mello.

9 SENATOR MELLO: Aye.

10 SECRETARY WEBB: Senator Petris. Senator Craven.

11 SENATOR CRAVEN: Aye.

12 SECRETARY WEBB: Senator Roberti.

13 CHAIRMAN ROBERTI: Aye.

14 The vote is four to nothing; confirmation is
15 recommended.

16 Congratulations.

17 MS. NORRIS: Thank you very much.

18 CHAIRMAN ROBERTI: Albert C. Taucher, Member of the Fish
19 and Game Commission.

20 MR. TAUCHER: Mr. Chairman, Members, how are you today?

21 CHAIRMAN ROBERTI: Pretty well. Good to see you.

22 MR. TAUCHER: I'm glad to be here, I believe.

23 CHAIRMAN ROBERTI: We'll ask you what we ask all the
24 Governor's Appointees, and that is why you feel you're qualified
25 to assume this position?

26 MR. TAUCHER: Well, the reason I believe I'm qualified
27 is that six and a half years ago, when I first went on, I was
28

1 qualified then. I knew what I was doing, and I was confident
2 with it. I was very comfortable.

3 And now I'm six and a half years smarter, and I know
4 that much more. And I believe that I'm probably one of the only
5 Members of the Commission that spends an average of 30 hours a
6 week working at it.

7 CHAIRMAN ROBERTI: Thank you very much, Mr. Taucher.

8 We'll ask for opposition first, if there's any
9 opposition, or observations.

10 Gladys.

11 MR. TAUCHER: Gladys, how are you today?

12 MS. SARGENT: I'm fine. How are you?

13 MR. TAUCHER: Fine, thank you.

14 MS. SARGENT: I'm here in opposition to you, you know.

15 MR. TAUCHER: I know that.

16 (Laughter.)

17 MS. SARGENT: I wanted you to know for sure.

18 MR. TAUCHER: I anticipated that.

19 MS. SARGENT: Shall I go ahead?

20 CHAIRMAN ROBERTI: Yes, please. Identify yourself for
21 the record also.

22 MS. SARGENT: I'm Gladys Sargent, President-Founder of
23 Pets and Pals. And I've been lobbying around here without
24 compensation since 1947.

25 Does that give me a little credence around here? Does
26 somebody know me? Do you know me?

1 MR. TAUCHER: Yes, ma'am. I've seen you at Commission
2 meetings; you and your wonderful hats.

3 MS. SARGENT: Well, thank you.

4 I would like very much to defeat you, but I don't think
5 I can. I don't think I can keep you off the Commission.

6 But I would like very much to have somebody besides
7 hunters on the Commission. I've already talked to the Governor
8 about it, and I suggest that I should be in your place.

9 But anyway, if I can't defeat you, and I know you're a
10 hunter; aren't you?

11 MR. TAUCHER: I do hunt.

12 MS. SARGENT: Yes, you mean you go out killing.

13 MR. TAUCHER: Yes, I like to shoot birds.

14 MS. SARGENT: And I want to tell this group that --
15 these gentlemen that represent us, that we should have someone on
16 the Commission that is not a killer of our wildlife, because the
17 majority of the taxpayers and the voters are not hunters, and
18 they don't want our wildlife killed, which belongs to all of us.

19 So, if I can't defeat you, could I get a commitment out
20 of you that you would do something to help our bears, our
21 mountain lions, the Tule Elk, and any of our animals? Could I
22 get you to tell me what you would do to protect some of those
23 animals?

24 CHAIRMAN ROBERTI: She's asking the question through the
25 Chair, so I'll ask the same question.

26 MR. TAUCHER: Okay, I'll be glad to address that.
27
28

1 We're mandated by the State that any animal that is
2 considered a game animal we have to manage. There's nothing we
3 can do about that. Whether we want to or whether we don't, we
4 have to manage that animal.

5 Now, lions, for instance, when it was protected, we had
6 nothing to do with that animal. But the minute it came off the
7 protection list, then it became our charge to manage it.

8 Now, in managing animals in the State of California
9 today, it's not an easy task because we're getting too damn many
10 people in here, and we got to take care of the people and the
11 animals, and try to make everybody live together.

12 So consequently, we need to find out the biological
13 aspect of any particular animal, and if there are too many of
14 those animals that they cannot feed themselves, we're better off
15 to manage them and thin them out so that they stay healthy.

16 Now, we were up in Lone Pine two weeks ago on a meeting.
17 And they had a depredation lion in their cooler there, and you
18 would have absolutely cried to see the condition of that animal.
19 I mean, he wasn't any more than three inches across the haunches.

20 MS. SARGENT: Yeah, but they're not all that way.

21 MR. TAUCHER: They're not all that way, no, but as we
22 get more and more, it's going to get worse.

23 MS. SARGENT: Yes, but you don't have to allow these
24 hunters to go out --

25 CHAIRMAN ROBERTI: Please ask the question through the
26 Chair.

27 MS. SARGENT: Okay.
28

1 Well, the question is: why are they allowing hunters to
2 go out with dogs and chase the poor mountain lions up a tree, and
3 then have a hunter come along and shoot it out of the tree?

4 This certainly isn't sport, and I don't call it sport at
5 all.

6 CHAIRMAN ROBERTI: What is the policy of the Department
7 regarding mountain lions and the method in which they are hunted?

8 MR. TAUCHER: First of all, let me make a statement that
9 the only time I actually use a dog for hunting is for bird
10 hunting. I mean, I am not a -- I don't hunt with a pack of dogs
11 to hunt lions, to hunt bear. That's not my cup of tea.

12 But to answer your question, we have allowed people to
13 use dogs in the take of mountain lion and of bear. The reason
14 being -- and maybe Gladys is right in this -- but the reason
15 being that very few animals would be taken without dogs because
16 they're very elusive, and it's hard for a person without an
17 animal to get one.

18 So, you might be right.

19 MS. SARGENT: Good for them.

20 Well then, can I get a commitment that you'd be on the
21 Commission to try to do something about this?

22 MR. TAUCHER: I will give you this commitment, that I
23 will certainly stay there and take a long, hard look. And if
24 it's feasible, I'd be --

25 MS. SARGENT: Shake my hand on it?

26 MR. TAUCHER: Yes, ma'am.
27
28

1 MS. SARGENT: All right, what will you do for the bears
2 and the Tule Elk and Big Horn sheep?

3 For years, you know, I've been protecting the Big Horn
4 Sheep and the mountain lion. Then, all of a sudden now, they're
5 just killing everything. There won't be anything left, except
6 you and me.

7 MR. TAUCHER: The only thing I can tell you, Gladys, is
8 that when I first went on the Commission, when the Governor first
9 appointed me, he said that, "You have to manage all the animals
10 and the resources under your control for their best being and
11 also for everybody in the State of California."

12 MS. SARGENT: Yeah, but they're not doing for their best
13 being. The Commission is not.

14 MR. TAUCHER: Well, take, okay, your elk. Now, we were
15 required to get a herd of 2,000 elk before we could hunt them.
16 Now, before we hit the 2,000 mark, we were getting threats of --
17 from the ranchers on depredation stuff that we were going to have
18 to come up and pay. They were going to sue the State to pay for
19 the depredation of the wild animal because we were not managing
20 it in the proper fashion. And we couldn't do anything about
21 that.

22 MS. SARGENT: Why don't we make them have a fence, or
23 something, to protect their own property?

24 MR. TAUCHER: We have elk fences.

25 MS. SARGENT: No, I mean the farmers.

26 MR. TAUCHER: Well, they did have fences, but it takes a
27 big --

1 MS. SARGENT: A lot of them don't, though.

2 MR. TAUCHER: -- but it takes a -- one hell of a heavy
3 fence to keep the elk out.

4 Now, I was dealing with some farm advisors from
5 Mendocino County, and they had some experimental crops in. And
6 they just couldn't keep the elk out.

7 MS. SARGENT: I was just up there over the weekend.

8 MR. TAUCHER: They just couldn't keep the --

9 MS. SARGENT: But they don't try.

10 MR. TAUCHER: Well, in this case, Rod Shippey was trying
11 because he was working for the farm deal, and finally he got the
12 Department to come up with some elk fences and put them up. And
13 they're still having some problems, but they stopped some of
14 them.

15 MS. SARGENT: Will you make the Commission listen to us
16 more?

17 CHAIRMAN ROBERTI: Gladys, why don't you ask --

18 MS. SARGENT: Do you think I've done enough? I haven't
19 quite finished.

20 CHAIRMAN ROBERTI: Yes, why don't you finish your
21 presentation. If you have questions, try to get me to ask them.

22 MS. SARGENT: Well, he talked about the mountain lion
23 and the Tule Elk, what about the bears?

24 MR. TAUCHER: The bear's in the same situation. We have
25 -- let me put it this way, we had a meeting in Yosemite several
26 months ago, and the rangers in the Yosemite Valley said, "Why
27 don't you help us get rid of some of these bears?" And we said,
28 "Fine, we'll have a hunt in Yosemite Valley."

1 Absolutely no, they wouldn't hear of that. That's the
2 federal government.

3 But there are more bears than we know what the heck to
4 do with, and in each case -- the bear, the lion or the elk -- the
5 zoos or that type of thing, they have more than they want. They
6 won't take them.

7 MS. SARGENT: I know.

8 MR. TAUCHER: They just won't take them.

9 MS. SARGENT: Because they let them free. They
10 shouldn't be breeding more of them if they haven't got place for
11 them.

12 CHAIRMAN ROBERTI: Gladys, you're making an editorial
13 comment on that.

14 MS. SARGENT: Well, you know, years ago I stopped the
15 trapping of the California Bear. Went up to Eureka and got a
16 bill through.

17 And now it just seems like that we just have a job
18 getting the bills through, and the Fish and Game Commission don't
19 cooperate.

20 Can you make them cooperate more, Senator Roberti?

21 CHAIRMAN ROBERTI: With legislation.

22 Let me ask you the question. What does happen when the
23 Legislature establishes a public policy on, say, taking an
24 animal, or restricting the management of the animal?

25 MR. TAUCHER: You fellows have got the last word. We go
26 right along with that.

27

28

1 If we don't have any direction from you, then we make
2 our own decisions.

3 CHAIRMAN ROBERTI: And what is the charge to the
4 Commission as far as the law is concerned, as far as the statute
5 reads?

6 MR. TAUCHER: Basically --

7 CHAIRMAN ROBERTI: Which animals have to be managed;
8 which would fall under endangered species? Is it strictly
9 legislative, or do you have discretion to have certain animals
10 fall into one category and into the other?

11 MR. TAUCHER: No, there are certain animals that are
12 game animals, and they fall into the category.

13 Now, like dogs and cats and things like that, we have no
14 control over. That doesn't come under our jurisdiction at all.

15 But the game-type animals, the endangered species, of
16 course, we list, and the fishes we have to maintain. Well, like,
17 I was instrumental in getting the Sea Otter moved out to San
18 Nicolas Island, which so far hasn't worked too well, but at least
19 we have another year to see if it's going to work.

20 CHAIRMAN ROBERTI: You're trying.

21 MR. TAUCHER: We're trying.

22 And the situation that the Commission is in, making
23 policy is all we can do. I mean, administration is up to the
24 Department. So, we try to stay out of that, so we can suggest
25 and make policy, and then they're supposed to carry it out. And
26 I think they do the best they can. It's just a question of
27 getting it done.
28

1 CHAIRMAN ROBERTI: Thank you, Mr. Taucher.

2 Do you have any other statements?

3 MS. SARGENT: Two more questions.

4 CHAIRMAN ROBERTI: Why don't you ask me the questions,
5 and I'll ask him.

6 MS. SARGENT: The big thing is, I want to know if I put
7 a bow and arrow bill in.

8 I understand with arrows, they can't even kill the deer.
9 And I want to put a bill in to stop bow and arrow hunting. I
10 think it's real cruel.

11 And the other thing is about the steel-jawed trap, which
12 I was able to stop years ago against the bears. I want to know
13 how we stand.

14 CHAIRMAN ROBERTI: What is your policy on bow and arrow
15 hunting and on the steel-jawed trap? To what extend does the
16 Commission have jurisdiction in this area?

17 MR. TAUCHER: We have jurisdiction over the archery. We
18 have a special archery hunt. We do believe that archery hunts
19 are good. They take care of a class of people that do not go out
20 and shoot guns. I mean, they shoot -- they have to get closer to
21 kill their animal.

22 And contrary to what Gladys might have heard, there are
23 some good kills, especially with the new sophisticated equipment.
24 I mean, they've got bows now that you can -- they have about
25 120-25 pound thrust that they can use and more.

26 CHAIRMAN ROBERTI: If you authorized an archery hunt,
27 say, of the deer, do you look into the fact whether the strike,
28

1 whatever the word is, has killed the deer? Is that a factor in
2 authorizing the hunt?

3 MR. TAUCHER: What was that? I didn't get that.

4 CHAIRMAN ROBERTI: When you authorize an archery hunt of
5 deer in a selected area, is a factor in your authorization, one
6 of the things you take into consideration, whether the deer can
7 be killed with one shot?

8 MR. TAUCHER: Yes, sir. And I'll tell you, I'll give
9 you a point on that. It isn't on the deer, but when we first put
10 the Big Horn Sheep on, and when we had -- we sell nine permits a
11 year now because the population is up and it's building itself --
12 the first year we would not authorize an archery hunt because we
13 weren't sure what was going to happen.

14 But now, we've been convinced that -- by the archery
15 people, that they can indeed kill, and we've seen it happen.

16 CHAIRMAN ROBERTI: Senator Craven.

17 SENATOR CRAVEN: I'm not a hunter nor an archer, but
18 really, the accuracy of the archer is really the determinant as
19 to the kill of the animal; isn't it? I mean, you could hit him
20 in the flank with an arrow and have the animal scamper around
21 with an arrow impaled upon his body, or its body.

22 MR. TAUCHER: Yes, sir, that is true.

23 The same thing can happen with a rifle.

24 SENATOR CRAVEN: But that's not good, of course.

25 MR. TAUCHER: It's not good, either way. Either way,
26 that's no good. But it depends upon the -- today's archery
27 equipment have sights.
28

1 SENATOR CRAVEN: Oh, yes, I know it's very, very
2 technical.

3 MR. TAUCHER: It's very sophisticated.

4 SENATOR CRAVEN: Yes, sir, I understand that. It's not
5 the way the Indians intended, but --

6 (Laughter.)

7 SENATOR CRAVEN: I think some of the Anglo-Saxons used
8 that when they scaled the walls of the castle, at least the
9 movies have told me that, the long bows.

10 MR. TAUCHER: Long bows, right, but the day of the long
11 bow is no more.

12 Well, the long bow didn't have the sophistication of
13 heavy pull.

14 SENATOR CRAVEN: Oh, I see. Unfortunately, I can't
15 follow you too deeply into that subject area because I'm not
16 conversant with it.

17 CHAIRMAN ROBERTI: What about the steel-jawed trap?
18 What's your jurisdiction on that issue?

19 MR. TAUCHER: The steel-jawed trap is -- has come to
20 light since Santa Cruz County filed -- I believe Nevada County --
21 it wasn't Nevada County. It was one of the northern counties --
22 passed an ordinance, and it was done by referendum.

23 And the Department feels that there are times when it is
24 absolutely necessary to use steel-jawed traps to take animals
25 that are doing depredation. That's why they would like to have
26 the right to do that, and they -- the question is whether they
27 need to really look out for the people's pets that are in town
28

1 when steel-jawed traps are not used in town. They're used way
2 out in the country because that's where the bigger animals are,
3 and that's what happens where they want.

4 So, that's more or less a philosophical question that I
5 think will probably be answered in court.

6 MS. SARGENT: It's too bad I can't take your place on
7 the Commission.

8 Would you suggest when you get through that I take your
9 place on the Commission?

10 MR. TAUCHER: Well, why not?

11 MS. SARGENT: Okay.

12 SENATOR CRAVEN: I think you ought to make that promise.

13 MS. SARGENT: Get a commitment to that, suggest it to
14 the Governor.

15 MR. TAUCHER: I don't know who the Governor's going to
16 be then.

17 MS. SARGENT: Well, I think I know.

18 You all heard that commitment.

19 (Laughter.)

20 MS. SARGENT: Thank you very much.

21 CHAIRMAN ROBERTI: Thank you, Gladys. Senator Mello.

22 MR. TAUCHER: Come and see us at the meeting.

23 MS. SARGENT: I will.

24 MR. TAUCHER: I hope I'm there to meet you.

25 MS. SARGENT: Will you do what I asked you to do?

26 MR. TAUCHER: Not what you just asked me to do, because
27 I can't do that, but I will guarantee you that I will --
28

1 MS. SARGENT: Do the best you can. I'll have to settle
2 for that.

3 CHAIRMAN ROBERTI: Senator Mello has a question.

4 SENATOR MELLO: First, let me say I think Gladys is
5 getting milder as she progresses. I've seen her a lot tougher
6 than she was here today.

7 I just want to remind her of what arrangements you made
8 with Mr. Taucher here. When you said, "Will you shake hands on
9 that?" He said, first of all, "I'm going to give it a long, hard
10 look."

11 MS. SARGENT: He didn't absolutely promise?

12 SENATOR MELLO: No.

13 What you have to recall is, what is a long, hard look?
14 A long, hard look just means that. You can look very hard at
15 something, but it doesn't mean -- I don't think he committed
16 himself to change anything as far as the situation has been.

17 MS. SARGENT: Thank you, Senator. I wish you'd find out
18 just exactly what he did promise.

19 SENATOR MELLO: He's one of the champions of long, hard
20 looks in this State.

21 MS. SARGENT: I want more than that.

22 SENATOR MELLO: No, that's what you shook hands for, so
23 that's as far as he's committed to you.

24 But I'm getting letters from people throughout my
25 district. Last week we met in Point Lobos to launch a kickoff
26 for an initiative to try to protect the mountain lion. There'll
27 be an issue on the ballot in 1990. We're going to try to raise
28 some \$28 million.

1 And the reason for it is the concern that people have
2 about a very important part of our natural resources, being
3 mountain lions.

4 The other thing I want to call to the Committee's
5 attention is that Fish and Game Members are appointed for longer
6 terms. This gentleman's term will expire January 1, 1995.
7 That's a six-year term from point of being nominated, which means
8 that Governor Deukmejian will be leaving at the end of 1990, so
9 you'll be spending, after he leaves, you'll be serving four years
10 of the term of the next Governor who succeeds Governor
11 Deukmejian.

12 I supported you last time, if you recall. But what I
13 think has happened in the meantime, I'm very interested in trying
14 to preserve those animals that we have that are endangered. Let
15 me go into a little history about the mountain lion.

16 First of all, I think the Department and that entity
17 that's counting these mountain lions, there's evidence that shows
18 they are double-counting and triple-counting the specie. When
19 the moratorium was put on back in 1977, there was about 2,000
20 mountain lions. Now they're claiming 5100.

21 I sit on the Natural Resources Committee, and the person
22 in charge of that count, there's evidence that shows that three
23 and four people counted the same mountain lion; therefore, adding
24 up the numbers. When they come in to give their totals, the same
25 mountain lion would be counted more than once.

26 So therefore, I don't think the evidence there shows the
27 support that there are any 5100.
28

1 You made a statement that says whenever there's not
2 enough food or habitat out there, we ought to let the hunters
3 take these species. Well, long before we became a population
4 here on the North American Continent, a lot of these animals were
5 able to survive out there during thick and thin years.

6 What I'm concerned about is the way the Commission now
7 has voted to allow in 1987, with your support, to allow the
8 taking of 190 of these mountain lions. And the method in which
9 they're using dogs to run these animals up a tree and shooting
10 them out of the tree -- I mean, I'm a hunter myself. I've never
11 shot an animal. I shoot ducks and that type.

12 But they ought to at least give this animal a fighting
13 chance. Running an animal up a tree with dogs, and then using a
14 high-powered rifle to shoot that animal down at a range of about
15 20 feet, to me, is no sport at all.

16 I just feel that your support of this kind of regulation
17 by the Commission, not only with the mountain lion, but the Big
18 Horn Sheep now are being hunted.

19 The mountain lion, if you recall, Senator Presley had a
20 bill when the sunset came in that I thought was a good
21 compromise. It would allow some hunting within a smaller area
22 where there was determined to be an abundance of them. But the
23 Governor vetoed that bill; that was not good enough.

24 So right now, we're without a moratorium, and as these
25 lions are going to be hunted, they'll be, in my opinion, they'll
26 be soon extinct, and so will a lot of other rare and endangered
27 species.
28

1 That's one of the problems I have, and I've researched
2 your record.

3 The other area is the management of our water resources,
4 the renewal of the contracts in the Central Valley that had a
5 complete disregard for the Chinook Salmon and other fisheries is
6 another way. And I think all that I was looking for was a chance
7 for an environmental impact report being made before these
8 contracts came to be entered, and that may still happen with the
9 lawsuit that could be pending.

10 But it seems like we, in the Legislature, as you pointed
11 out, do have some responsibility as far as making legislative
12 laws. But the Commission is pretty much given a free hand as far
13 as regulation. And I just feel the way we're moving, both in
14 protecting fisheries, protecting animal habitat, and protecting
15 valuable water resources, and the fact that you're going to be
16 there till January 1, 1995, if I thought this handshake with
17 Gladys Sargent would turn your philosophy around even slightly to
18 help protect the species and habitat, then it certainly would
19 make me more happy.

20 But I think my concern is that you just continue to
21 support this issue that you have in the past, which means more
22 hunting of mountain lions, more hunting of Big Horn Sheep, more
23 disregard for salmon and endangered and protected species.

24 MR. TAUCHER: May I address some of your concerns there?

25 SENATOR MELLO: No, I'm not asking you a question
26 directly, but I'm making some statements. I'm sure the Chairman
27 will allow you to.
28

1 I just feel that, you know, for the next five years
2 we're going to need somebody in there. When this Governor leaves
3 office, we're going to have to try to rebuild the Fish and Game
4 Commission to a point, irrespective of who might be the new
5 Governor, to try to put more emphasis -- if we're going to err, I
6 think we ought to do it on the side of conservation and
7 protection, rather than the destruction of our animals and our
8 endangered species.

9 MR. TAUCHER: I agree with you wholeheartedly.

10 Let me go back and make the statement that I made to
11 Gladys. When an animal becomes a game animal, according to your
12 gentlemen's rules, I mean with the legislation, then it's put
13 into our hands to manage. We can't do anything else but manage.
14 I mean, that's what we're mandated to do.

15 And a year ago, at the Western Meeting, which is all the
16 Western States including Hawaii, British Columbia, Alaska, get
17 together once a year, Commissioners and their directors, and they
18 discuss problems.

19 But there was a referendum put through at that
20 particular time that they all passed and sent to national that
21 hunting was a legitimate tool for management, rather than just
22 send some hunters in there, or some government hunters in to do
23 what has to be done.

24 Now, for that part of it, whether my hunting part comes
25 in, I personally am a bird and upland game man myself.

26 But as far as the salmon's concerned, I was the one that
27 made the motion to list the Winter Run Salmon, and that's a
28

1 matter of record in our minutes. In fact, I wanted -- I mean,
2 the Department wanted it to be endangered. I made it threatened
3 because I thought that particular species needed to be protected
4 because they went way down. And I think that that shows that I'm
5 interested in that part of it.

6 Now, as far as your water issue in the Valley, the
7 Commission has nothing to do with that. That doesn't come under
8 our jurisdiction at all. And that was handled by the Water
9 Board, and the Department was in there as a third party with the
10 federal government getting some advice.

11 And if you gentlemen need to know more about that,
12 Deputy Director Paul Jensen is in the audience and would be glad
13 to speak to that, if you need to know more about that.

14 The Commission does not take care of the Valley water.

15 SENATOR MELLO: Just let me read into the record, then,
16 what the Little Hoover Commission said about the Fish and Game
17 Department, quote:

18 "Consistently the Department has
19 either not taken the lead or declined
20 to be represented during decisions
21 concerning major water allocation
22 planning and contracts. Currently
23 the Department has declined to take
24 part in renewal proceedings for 40
25 year district water contracts in
26 California's major central valley
27 water districts. A similar lack of
28

1 participation was evident with
2 respect to water flow and allocation
3 decisions concerning Mono Lake."

4 MR. TAUCHER: That's true. I mean, I don't know that
5 that's true, but where the confusion comes there, that's the
6 Department and we're the Commission. We're five men over here,
7 and we don't have any control over that.

8 SENATOR MELLO: You don't have any control over the
9 Department?

10 MR. TAUCHER: Only through policy. And this one down
11 there was handled by the Water Board, and they were the lead
12 agency.

13 SENATOR MELLO: I've been to some of your Fish and Game
14 meetings, and the Commission does set the policy and the
15 Department does carry it out.

16 MR. TAUCHER: That's true. That's what's supposed to
17 happen.

18 But in this particular case, they weren't even the lead
19 agency.

20 SENATOR MELLO: Well, I would just like to see the
21 Commission to turn a little bit more for the protection of
22 animals than this Commission currently is doing.

23 You voted to open up the mountain lion hunt; is that
24 correct?

25 MR. TAUCHER: I beg your pardon?

26 SENATOR MELLO: You voted to allow the hunting of
27 mountain lions?
28

1 MR. TAUCHER: Yes, sir, I sure did, and the reason being
2 that we had to do something with that animal because it was off
3 the endangered list.

4 If the Legislature or the referendum that's coming up
5 puts it back on, we'll be perfectly happy to go right along with
6 it, because then it's out of our hands.

7 SENATOR MELLO: You'll have no choice.

8 MR. TAUCHER: Well, I mean, it's taken away from us
9 then. We're not mandated to do anything with it.

10 SENATOR MELLO: How about the Big Horn Sheep? You voted
11 for that, to allow the hunting?

12 MR. TAUCHER: Yes, I did. I mean, that was -- the
13 Department recommended it, and we couldn't see any reason not to.

14 SENATOR MELLO: Okay, thank you.

15 CHAIRMAN ROBERTI: Thank you, Senator.

16 Senator Craven.

17 SENATOR CRAVEN: I'd like to go back to something that
18 you discussed previously, and that has to do with the count on
19 animals.

20 I would have to categorize as a layman that the count of
21 animals is not what we would call an exact science.

22 MR. TAUCHER: That's true.

23 SENATOR CRAVEN: I've had just a little bit of
24 experience in that on a federal reservation, where they used to
25 count deer every year, and still do, I presume.

26 Incidentally, do you have any jurisdiction over federal
27 reservations?
28

1 MR. TAUCHER: Federal?

2 SENATOR CRAVEN: Yes.

3 MR. TAUCHER: No.

4 SENATOR CRAVEN: None at all.

5 Well, what I was going to ask you is, do you factor the
6 figure that's given you as to the amount of elk you have, or
7 mountain lions, or do you just take the figure that someone says,
8 "Mr. Chairman," or whatever, "this is the number"?

9 In other words, if I say to you, "There are 5100 of
10 these animals," do you feel that that's an exact count? Or, do
11 you say, well, let's figure that 60 percent of that's correct,
12 and 40 percent of it is double-counted?

13 MR. TAUCHER: To answer your question, yes, we listen to
14 it, but we first, before we -- the Department has biologists.
15 We don't have enough -- our budget isn't such that we can have
16 Commission biologists, so we depend on Department biologists.

17 SENATOR CRAVEN: I see.

18 MR. TAUCHER: And what we do is, when they come in with
19 a recommendation of that nature, we demand documentation.

20 SENATOR CRAVEN: I see.

21 MR. TAUCHER: And a packet I gave you there ahead of
22 time shows part of it on what they did with the lion. It was --
23 when we got all through, it was pretty plain that they had done
24 their homework, and there was a meeting with the Dr. Boris
25 Hornocker, I believe his name is, who is a renowned lion
26 scientist, and his methodology [sic] was exactly the same as the
27 Department was using, and that Berkeley used in the Monterey
28 study.

1 So, we had no reason at that to believe that the
2 Department was wrong. I mean, after all, these are honest men,
3 and they're doing --

4 SENATOR CRAVEN: I don't in any way question their
5 honesty or integrity.

6 I just question, you know, if two of us see the same
7 animal, do we both count it?

8 MR. TAUCHER: Lions are counted not so much by sight,
9 because they're awfully hard to see. You have a map in your
10 packet there, and it shows the areas that have been designated as
11 lion habitat areas.

12 SENATOR CRAVEN: Typical areas.

13 MR. TAUCHER: Typical areas.

14 Our scientists then go in. They evaluate the area.
15 They count tracks, and they put radios on them, on the animals;
16 dart them and put radios on them, and follow them. And then,
17 they make an educated guess as to what's there.

18 Now, in Monterey, they did that. And then they went in,
19 they wanted to trap all the animals that were there and put
20 radios on all of them. Well, they trapped more animals than they
21 estimated were in there.

22 SENATOR CRAVEN: So, I think what you're telling me is
23 basically that you have a very secure reliance on the counts that
24 have been delivered to you and your fellow commissioners?

25 MR. TAUCHER: Yes, sir. But we also realize that any
26 time you get a situation like this, two bright men or two bright
27 women can have different opinions.
28

1 SENATOR CRAVEN: Oh, I understand that.

2 Let me just change the subject and make this as brief as
3 I can.

4 The Anza Borrego Desert, you're familiar with that, I
5 presume? That's in San Diego County.

6 MR. TAUCHER: Right.

7 SENATOR CRAVEN: That's not in my district, but it's an
8 area that I'm familiar with and where I have served in other
9 capacities.

10 And the people who live in the Borrego area, that's a
11 little community there, are always talking about the Big Horn
12 Sheep, and that the Big Horn Sheep, there are so very few of them
13 left.

14 I get the impression that there's an increase in those
15 sheep.

16 MR. TAUCHER: Very definitely.

17 SENATOR CRAVEN: Is there in that State Park?

18 MR. TAUCHER: I can't tell you about Borrego. I don't
19 know, but I know that further down into the Imperial Valley, I
20 had occasion to go with our pilot that monitors these sheep and
21 see these sheep. And there's four different ranges. There's a
22 good quantity of sheep.

23 SENATOR CRAVEN: I would think about the only way you
24 could count the sheep would be aerially, wouldn't you, because
25 they're up in the mountains, most of them.

26 MR. TAUCHER: That's right, but let me go a little
27 further on that sheep deal, because I think it's extremely
28 interesting.

1 This pilot, he has his -- each sheep has been tagged
2 with a radio. And each one has its own beep. So, when they go
3 into these mountains, they might not even see the sheep, but you
4 can pick up the beep. Then you go down and find it.

5 But they know which one is there, where they've moved to
6 if they find it in another range of hills.

7 SENATOR CRAVEN: So you feel that there is, in fact, not
8 only a preservation effort that has been expended on the sheep,
9 but it has been productive in that it has provided for more of
10 them?

11 MR. TAUCHER: That's correct.

12 SENATOR CRAVEN: That's good news.

13 MR. TAUCHER: And on the benefit of the Department in
14 the Commission as a whole, there's no one that I've run across
15 yet that wants to kill all the animals just for the sake of
16 killing them.

17 SENATOR CRAVEN: I would hope not.

18 MR. TAUCHER: It's a management tool. We try to keep
19 everything that we can.

20 SENATOR CRAVEN: Has management of the sheep been a
21 problem?

22 MR. TAUCHER: Management of the sheep was a problem.

23 SENATOR CRAVEN: In other words, are you saying to me
24 that there have been times when there were too many of them?

25 MR. TAUCHER: No, that's not -- no, not right.

26 There was too few, and we had to get them listed, and
27 then go with it.

1 We have a herd down there that's a private herd, just
2 outside of Palm Springs, but we can't mix those because when you
3 get herds of animals that are in captivity like that, they tend
4 to develop some diseases that they can give to wild animals.

5 SENATOR CRAVEN: Yes, that area is just north of the
6 area that I referred to.

7 MR. TAUCHER: Right.

8 SENATOR CRAVEN: Thank you very much.

9 CHAIRMAN ROBERTI: Yes, Ms. Handley.

10 MS. HANDLEY: Virginia Handley with the Fund for
11 Animals, concerned along the same lines.

12 The Big Horn Sheep, the hunting that's going on now, I
13 don't believe, is for the welfare of the sheep. It's because
14 they feel they have enough extra to provide a hunting opportunity
15 for them.

16 I was at the hearing where they discussed the bow and
17 arrow hunting of the Big Horn Sheep. I got up and opposed bow
18 and arrow hunting of the sheep. There was never any discussion
19 about, well, let's not have it because the bow and arrow is less
20 desirable.

21 We have existing law in the authorization of the Fish
22 Game Commission, a little-known phrase in there that says among
23 the considerations that they must have in regulating their
24 wildlife is the consideration of the welfare of the individual
25 animal. And I don't think that that line in that authorization
26 has really been observed by the Commission at all, or there would
27 be a lot more consideration about such things as bow and arrow
28 hunting and about the use of dogs.

1 There have been studies that have been done that have
2 shown bow and arrow hunting involves more wounding of animals,
3 that less wildlife is retrieved because they are only wounded and
4 are able to run off and are not retrieved.

5 We would like to see the Commission pay a lot more
6 attention to that line, the welfare of the individual animals.
7 Right now, they have, as Mr. Taucher knows, the exotic animal
8 regulations in front of them that are so important, that are
9 going to affect thousands of animals, of wildlife that are in
10 captivity. And so, that line is extremely important right now,
11 that they consider the welfare of those individual animals.

12 We're concerned, too, about, of course, endangered
13 species. The Commission stalled the listing of the Desert
14 Tortoise for six months when, by law, they should have taken
15 action on that earlier.

16 I do want to thank Commissioner Taucher, though, for
17 finally voting for the Desert Tortoise when they finally did vote
18 on it.

19 MR. TAUCHER: I think I made the motion to have a vote.

20 MS. HANDLEY: And we appreciate that very much because
21 it was a very -- three-to-two vote, so it was -- his support was
22 very important.

23 We would like to see the Commission made up of more of a
24 broad selection of people. We supported ACA 44, Assemblyman
25 Campbell's bill that would have demanded more expertise, which we
26 don't think that the Commission has now, and we think in fact has
27 more of a vested interest in keeping more hunting and just
28

1 satisfying that element of the population, which, as we know, is
2 a small minority of them.

3 The Fund for Animals has just sued the Fish and Game
4 because of the Black Bear hunting. That's another incident where
5 we think if they paid attention to the welfare of the individual
6 animal, then we would have more of an effort to work with the
7 timber industry in getting some alternative feeding programs.
8 There are existing pellets that can be put out that the bears
9 will eat, that they will not touch the trees. We don't see any
10 effort on the part of Fish and Game or the timber industry, or
11 the Fish and Game Commission, which should be trying to get these
12 kind of programs going. Instead, we get a hunting season.

13 I'm reflecting some of the concerns, too, of Defenders
14 of Wildlife, who was not able to be here today.

15 Thank you.

16 CHAIRMAN ROBERTI: Are there any other witnesses in
17 opposition? Yes, please come forward.

18 MR. PIEPER: I'm Joyce Pieper, representing Mercy
19 Crusade.

20 I don't have anything to add that hasn't already been
21 said. I just want to know -- what you to know that we do oppose
22 this reappointment on the basis that it only perpetuates the
23 nonrepresentation of our population of this state.

24 We'd like to see this Commission broken up with a better
25 representation, more accurately reflecting our wishes.

26 And I will say that I attended both of those mountain
27 lion hearings down in Long Beach, and I saw hundreds of people
28

1 down there making very impassioned pleas, and providing very good
2 reasons for why these mountain lions shouldn't have been hunted.
3 And the Commission went ahead and voted for this hunt in spite of
4 our wishes. We had to take you to court to get those hunts
5 stopped both times, and neither time could you provide the court
6 with enough evidence to substantiate that hunt. We feel very
7 strongly about this.

8 I'm looking here at our State flag, which has an extinct
9 bear on it, and I'm wondering if we're going to have to make the
10 flag larger to accommodate any more lost species in this state.

11 That's all.

12 CHAIRMAN ROBERTI: Thank you very much.

13 SENATOR CRAVEN: What is the organization you represent?

14 MS. PIEPER: I'm with Mercy Crusade.

15 SENATOR CRAVEN: Thank you very much.

16 CHAIRMAN ROBERTI: Do I hear a motion?

17 SENATOR BEVERLY: Mr. Chairman --

18 SENATOR PETRIS: Go ahead. I have a question, but you
19 finish.

20 SENATOR BEVERLY: I was going to make a motion.

21 CHAIRMAN ROBERTI: Senator Petris, why don't you go
22 ahead.

23 SENATOR PETRIS: Just briefly.

24 I'm concerned about the makeup. That's not your
25 responsibility, I realize. But here we've got five members;
26 they're all hunters; they're all males; they're all White. There
27 are no women, or nonhunters, men or women.

1 It seems to me the Governor ought to have at least one
2 or two with different viewpoints to get the full range of opinion
3 expressed in the deliberations of the Commission.

4 There's also the environmental concerns which are part
5 of the problem. There's no environmental viewpoint being
6 presented. I'm sure that maybe one or two of the members are
7 well-informed on it, but they're not identified as coming from
8 that part of the world.

9 I just want to express that to you and for the record.
10 In the event you are confirmed, I'd like you to keep that in mind
11 and see to it that the input in the deliberations is more
12 complete.

13 I'm also interested in the lion problem. You indicated
14 that the outside people used the same methodology as your people
15 and, apparently, reached the same conclusions. But those
16 apparently did not satisfy the Court.

17 Why did the Court issue its order? Was it based on the
18 study or the lack of sufficient study?

19 MR. TAUCHER: No, sir.

20 It was based on a technicality in that we circulated a
21 draft EIR. It had -- all the time elements were proper. And
22 then, after we circulated the draft EIR is when it went to a
23 vote.

24 The Court maintained that that was not legal. We had to
25 circulate the final EIR before we could take a vote. That's what
26 it was stopped on.

1 And then the reason we went to court, it was at the
2 advice of our attorneys, both the attorney for the Department and
3 our attorney, who, as you know, is the Attorney General.

4 SENATOR PETRIS: You mean on the appeal or on the --

5 MR. TAUCHER: The appeal.

6 SENATOR PETRIS: You didn't start the lawsuit to begin
7 with. You were a defendant.

8 Were you present at the trial?

9 MR. TAUCHER: No, no.

10 SENATOR PETRIS: Can you give us any information as to
11 what, if anything, the Court said about the studies of the
12 Department relating to the count?

13 MR. TAUCHER: No, to my knowledge -- well, to my
14 knowledge there wasn't any, but I mean, I can certainly get that
15 for you. Denis Smaage was our representative, our attorney, and
16 he has his records out of the AG's office.

17 SENATOR PETRIS: I'd like somebody to enlighten us on
18 that.

19 You see, I carried legislation to prohibit the hunt. At
20 that time, I received a lot of information challenging the
21 validity and the methodology used by the Commission to justify
22 its position that there ought to be a hunt. To me, that went to
23 the heart of the matter, in addition to the notion of whether you
24 use dogs or not. That was, of course, another big issue.

25 Can you answer that for me?

26 MR. YEATES: Senator Petris, my name is Bill Yeates, and
27 I'm a board member of the Mountain Lion Preservation Foundation.
28 We're one of the litigants in the present court case.

1 And I want to make it clear that the Foundation hasn't
2 taken a position on Mr. Taucher's appointment, though we share,
3 maybe, some of your views about the makeup of the Commission.
4 Unfortunately, that's really this Governor's responsibility.

5 However, I really want to make it clear that the
6 litigation was one of the things -- I may disagree with
7 Mr. Taucher, but I think his record is clear that he's one of the
8 harder working Commissioners. I absolutely disagree with him on
9 hunting the mountain lion and many other issues, but he is there.
10 We disagree, and there's some issues we probably do agree on.

11 But on the mountain lion issue, I don't think the
12 Commission used very much independent judgment on the research
13 the Department did. I don't think Dr. Hornocker would ever
14 suggest that the research the Department did on mountain lions
15 was good. I think that the Department and the Commission had an
16 inclination to hunt lions and proceeded ahead.

17 We were able to win in court simply because they failed
18 to comply with the California Environmental Quality Act. There's
19 no technicality. They just flat ignored it.

20 SENATOR PETRIS: Let me point out that since Mr.
21 Nofzinger was rescued by the court, we don't talk about
22 technicalities any more in a critical manner. We think of those
23 technicalities now as solid law, and the judges are very wise.

24 So, I'll offer an amendment to that statement made by
25 somebody else.

26 MR. YEATES: One area, I think, that I have a great deal
27 of concern about and really disagreement with the Department,
28

1 with the Commission, and I think Mr. Taucher was present at that
2 time, and certainly with the Attorney General's Office, is when,
3 as a result of our testimony in opposition to the second proposed
4 hunt on lions, the actual day that we were there testifying in
5 opposition to the hunt, unbeknownst to us, a complaint was being
6 filed against us for the mere fact that we were opposing this
7 hunt. And the next Monday, when I went to my office, I was
8 served by two Fish and Game wardens as a defendant in a lawsuit
9 brought by the State of California against us for expressing our
10 views.

11 I found that outrageous. It was a politically
12 advantageous thing for us that the State of California sued us --
13 it certainly helped us in the press -- but at the same time, for
14 many of the board members that didn't understand the
15 technicalities of filing a lawsuit, they were just shocked that
16 essentially the State of California could bring a lawsuit against
17 them for doing nothing more than going before a publicly convened
18 meeting and stating their absolute opposition to the senseless
19 trophy hunting of mountain lions.

20 Fortunately, that lawsuit was dropped, but it was
21 dropped after we basically had to jerk the Commission's budget
22 around. The Legislature took that action, and we had to really
23 get some movement to get that litigation dropped against
24 essentially private citizens. And I found that kind of
25 outrageous.

26 But I don't believe that it can be fairly stated, and
27 that's one of the reasons we're up on appeal, that the Commission
28

1 or the Department fairly complied with the California
2 Environmental Quality Act.

3 SENATOR PETRIS: Apparently that's a key issue.

4 MR. YEATES: Yes.

5 SENATOR PETRIS: What I was looking for was some finding
6 by the Court, if there is any, regarding the nature and validity
7 and quality of the Department methodology of the count.

8 MR. YEATES: There was no finding by the Court on the
9 methodology used by the Department in terms of the count because
10 essentially they had failed to comply with the public
11 notification requirements of the California Environmental Quality
12 Act.

13 SENATOR PETRIS: Thank you.

14 MR. TAUCHER: Pardon me.

15 Would you like a little more information? I have two
16 people back here --

17 SENATOR BEVERLY: Mr. Chairman, I'm prepared to make a
18 motion.

19 I want to make one comment.

20 I share the concerns of the witnesses who opposed the
21 nomination today or raised questions concerning it. I think you
22 know my reputation on animal rights issues is that of a moderate,
23 more pro-animal rights than otherwise. I've supported some
24 important legislation by you, Mr. Chairman.

25 And I also represent the community of Long Beach, in
26 which Mr. Taucher is a very respected, responsible member, active
27 in behalf of the community. I think he's matured in the job.
28 He's certainly dedicated to it, as the witnesses have indicated.

1 I'm pleased to move that we recommend his conformation.

2 CHAIRMAN ROBERTI: Thank you, Senator.

3 Is there any further opposition?

4 Mr. Taucher, why don't you conclude?

5 MR. TAUCHER: I beg your pardon?

6 CHAIRMAN ROBERTI: You may conclude or rebut if you
7 wish.

8 MR. TAUCHER: Okay.

9 Let me put it this way. I've been a life member of the
10 Isaac-Walton League for 30 years, I guess, something of that
11 nature. I'm a member of the Audubon Society. I belong to the
12 National Wildlife Coalition, and I don't know what others.

13 But I am definitely interested in preserving wildlife,
14 but what when our mandate is to manage, I mean, you put another
15 hat on. You don't kill if you don't have to, but if you have a
16 management problem, and you're told by the State that you have to
17 do that, you do it, and you do your job.

18 But we still list endangered species. We're not adverse
19 to that, as long as it's a warranted thing.

20 CHAIRMAN ROBERTI: Thank you, Mr. Taucher.

21 Senator Beverly's motion is before us.

22 Secretary, call the roll.

23 SECRETARY WEBB: Senator Beverly.

24 SENATOR BEVERLY: Aye.

25 SECRETARY WEBB: Senator Mello.

26 SENATOR MELLO: No.

27 SECRETARY WEBB: Senator Petris. Senator Craven.

1 SENATOR CRAVEN: Aye.

2 SECRETARY WEBB: Senator Roberti.

3 CHAIRMAN ROBERTI: Aye.

4 The vote is three to one, one abstention; confirmation
5 is recommended to the Floor.

6 MR. TAUCHER: Thank you.

7 SENATOR CRAVEN: Mr. Chairman, if I may.

8 CHAIRMAN ROBERTI: Senator Craven.

9 SENATOR CRAVEN: I thought at the outset of this hearing
10 that I wanted to make a comment which had been touched upon by
11 several of the witnesses as well as Senator Petris.

12 I would like to request of the Chairman that we direct a
13 letter to the Governor expressing our interest in and hope for a
14 re-evaluation of appointees to the Commission. This in no way
15 reflects on Mr. Taucher whatsoever.

16 But I would like to feel that we had some representation
17 from the naturalist side, or the environmental side, or whatever
18 you choose to call those people who are not necessarily
19 protagonists of the hunt, but people who have great feeling for
20 the animals, their habitat, and their well being. I think to
21 have a person like that on the Commission would only serve to
22 give the Commission greater strength and a greater and broader
23 scope. I think in dealing with matters of this nature, that is
24 very, very important.

25 You will recall, as our colleagues will recall, we have
26 had a similar situation come up when we talked about Regents, and
27 we had a gentleman here whom I recall very well. And he was up
28

1 for confirmation. Nobody really came in to object to him. They
2 said he was a very fine person. But what they objected to was
3 the fact that, as Senator Petris has so ably said, there were no
4 minorities, there were no women, and there were so many things
5 lacking in the representation among the Trustees or the Regents,
6 or whomever this happened to be, and I don't recall specifically.

7 CHAIRMAN ROBERTI: CSU.

8 SENATOR CRAVEN: Well, those are Trustees.

9 And this is sort of a replay of that. I think that we
10 should look at that again.

11 I think the Governor certainly is a big enough
12 individual to give credence to our request, and I would hope that
13 you would suggest or authorize that we direct a letter imploring
14 him to do that.

15 CHAIRMAN ROBERTI: Fine. Without objection, such will
16 be the order.

17 I share your concern, Senator Craven.

18 I voted for Mr. Taucher because, hearing the testimony
19 and knowing about him, I think he is diligent and hardworking.
20 And even though I didn't agree with all his decisions -- I don't
21 feel he's an ideologue at all -- and as he sees them, most of
22 these matters as they come before the vote, using his best
23 judgment.

24 However, I would suggest that we should write the
25 letter, and I personally am going to serve notice that for my own
26 vote, if there's another appointment to Fish and Game -- as I
27 served notice on CSU -- that I don't intend to vote for any more
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1 appointments unless they are balanced. And the minimum balance
2 is that we don't have a board of five hunters, also an important
3 balance would be that the board reflect the population dimensions
4 of the State of California as regard to sex and ethnicity. The
5 time has come for that to happen.

6 I personally am not going to vote for another member of
7 the Fish and Game Board unless that balance is present.

8 This is not to reflect on Mr. Taucher at all, because I
9 do think that he has been diligent and has, as he has seen the
10 issues, tried to be fair.

11 SENATOR CRAVEN: Thank you, Mr. Chairman.

12 (Thereupon the Rules Committee
13 acted upon legislative agenda
14 items.)

15 CHAIRMAN ROBERTI: Senator Torres is here for Jamie
16 Bailey, Member of the Youthful Offender Parole Board.

17 SENATOR TORRES: Yes, thank you very much, Mr. Chairman
18 and Members.

19 It's an honor for me to introduce Jamie Sepulveda
20 Bailey, a friend I've had the opportunity to work with over many
21 years here in Sacramento.

22 She was the Governor's Liaison to the Hispanic community
23 in California and served as the Deputy Director of the office of
24 Community Relations. She's also currently on the Board of
25 Directors of the United Way of Sacramento, and Pacific Bell's
26 Multilingual Services Council, and advisory committee to the
27 University of California Task Force on Hispanics.
28

1 I believe that I would just like to offer a personal
2 note. She's a tremendous role model for Hispanic women and women
3 in general across the state. And I think that's really what
4 makes her most qualified in terms of her commitment to those
5 people who are disadvantaged, and also her commitment in terms of
6 California. That's why I think she would make an excellent
7 member of the Youthful Offender Parole Board in making those
8 kinds of decisions with that kind of background.

9 Apart from that, she is a terrific mom and a wonderful
10 wife, I know, and also a tremendous sense of humor and
11 personality which I think would bode her well in terms of her
12 basic responsibilities for this role.

13 So, it's with a great sense of pride and friendship and
14 support that I bring her before this Committee.

15 CHAIRMAN ROBERTI: Thank you, Senator. That's about as
16 strong an endorsement as I've heard from one of our colleagues.

17 We're very happy to have you with us, Ms. Bailey. Do
18 you want to add any reasons why you feel you're qualified or
19 especially qualified to assume this position?

20 MS. BAILEY: How can I beat best mom and great wife, and
21 all that?

22 CHAIRMAN ROBERTI: That's right; you can't beat that.

23 MS. BAILEY: Thank you very much, Senator Torres.
24 Obviously, it's a sincere honor to have you be the person to
25 introduce me today.

26 I want you to know that it's an even greater honor to be
27 able to call you my friend, so thank you for that.

1 Mr. Chairman and Members of the Committee, the question
2 is why do I feel that I'm qualified to be on this board. And
3 I've seriously given it a lot of thought, and I want you to know
4 that that's probably, in my estimation, the toughest question
5 that I have ever had to answer, because I'm not sure, truly, what
6 qualifies one human being to ever stand in judgment of another
7 human being, and that's exactly what this job requires.

8 I have studied carefully the makeup of the job
9 requirements, the population of the Youth Authority that we have
10 to deal with, and the needs of the public that we serve. And I
11 feel that my strongest assets are, first, my personal background,
12 which Senator Torres very, very lightly touched on.

13 But all my life, as you can well imagine, I have been
14 categorized as a minority. I come from a nonprivileged
15 background. And yes, it's true, I don't have a formal education.
16 And I have raised, mostly as a single parent, two children who
17 are now young adults, and they're technically good young adults
18 at this point. And since this is a close description of most of
19 the wards and their families that we deal with, I find that I can
20 relate very easily.

21 Secondly, during my career development, I have directed
22 all of my community involvement and volunteer work to helping
23 develop our youth, particularly those in need. Some of the areas
24 that I have focused on are the areas for the mentally disabled,
25 with the Special Olympics for many years on the board; the
26 at-risk kids, children of migrant workers, with particular
27 emphasis on minority youth. I have tried through my years to be
28 a motivator, a leader and a role model for them.

1 Finally, my over 20 years as a manager in private sector
2 and State government, I feel, have developed me into a solid
3 decision maker. I'm used to assimilating the facts. I am used
4 to considering all of the options and making a decision.

5 This position, I believe, requires a combination of
6 compassion, of realism, of fairness, and decision making, and I
7 believe I have those qualities.

8 CHAIRMAN ROBERTI: Thank you very much, Ms. Bailey.

9 Is there any opposition in the audience?

10 SENATOR CRAVEN: Move Ms. Bailey.

11 CHAIRMAN ROBERTI: Senator Craven moves the confirmation
12 be recommended to the Floor.

13 Any questions? Senator Petris.

14 SENATOR PETRIS: Can you tell us a little about the new
15 experimental programs on the Mother-Infant Care? Have you had a
16 chance to familiarize yourself with them yet?

17 MS. BAILEY: Very, very briefly, I just want to
18 reemphasize that I was appointed by Governor Deukmejian to serve
19 on the Board mid-to-late February to fill an unexpired term. He
20 reappointed me again in mid-March, and I had the opportunity very
21 early on, while I was in training, as they say, to go and visit
22 the Mother-Infant Care program.

23 My -- I have not had the opportunity to work as part of
24 sending some of our wards to the Mother-Infant Care program.

25 My person opinion is that that is a program that I
26 believe is very much needed. I believe that once the program is
27 directed and given the appropriate structuring that is needed to
28

1 make it a successful program, I think everybody will benefit from
2 it.

3 I'm fully aware of some of the problems that have
4 beleaguered the program in the past, but I also know, through our
5 Board meetings -- our full Board en bank meetings and our
6 sessions with the Youth Authority -- how diligently both the
7 Youth Authority and the Board are working to make it an effective
8 program.

9 SENATOR PETRIS: How about rehabilitation?

10 MS. BAILEY: Pardon?

11 SENATOR PETRIS: Rehabilitation. Are any of the
12 programs working?

13 MS. BAILEY: I'll tell you what. One of the answers
14 that I give people when they say, you know, are you enjoying the
15 job? It's not an answer that you can say yes, I'm enjoying the
16 job. This is not an enjoyable type job.

17 But I think there's good news and bad news, Senator
18 Petris. And the bad news is that a lot of our kids had to end up
19 in the Youth Authority and on the wrong side of the law.

20 I think the good news, and I've seen it in just the past
21 few months that I have been in this position, is that there are a
22 lot of good news rehabilitated wards that we eventually release
23 on parole. I see some of them -- I want to call them students --
24 some of the kids that I know for a fact, the backgrounds that
25 they come from, would not have had the opportunity to pursue
26 employability skills, to pursue their education, even so far as
27 to complete 8th or 9th grade education.
28

1 So, I think that there is an awful lot of positive in
2 the rehabilitation area. It would be great if it was 100
3 percent, but then, you know, what is.

4 SENATOR PETRIS: What is the percentage that actually
5 get rehabilitated?

6 MS. BAILEY: I'm not sure. I would be guessing at the
7 statistics. I know that there's an awful lot of focus put on
8 recidivism rather than rehabilitation.

9 I'm too new, actually, to pretend I know those
10 statistics.

11 SENATOR PETRIS: Thank you.

12 CHAIRMAN ROBERTI: Thank you.

13 Any other questions?

14 Secretary, call the roll.

15 SECRETARY WEBB: Senator Beverly.

16 SENATOR BEVERLY: Aye.

17 SECRETARY WEBB: Senator Mello. Senator Petris.

18 SENATOR PETRIS: Aye.

19 SECRETARY WEBB: Senator Craven.

20 SENATOR CRAVEN: Aye.

21 SECRETARY WEBB: Senator Roberti.

22 CHAIRMAN ROBERTI: Aye.

23 The vote is fourth to nothing; confirmation is
24 recommended to the Floor.

25 Congratulations.

26 MS. BAILEY: Thank you very much.
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1 CHAIRMAN ROBERTI: We'll break for five minutes, then
2 take up with Mr. Wisehart, then we will return to reference of
3 bills, and the remainder of the rule waivers.

4 (Thereupon a brief recess was taken.)

5 CHAIRMAN ROBERTI: We are back in session.

6 Let's go to Mr. Wisehart, he's been waiting. Victor G.
7 Wisehart, Member of the Youthful Offender Parole Board.

8 MR. WISEHART: Mr. Chairman, Members of the Committee,
9 my name is Victor G. Wisehart, Jr.

10 CHAIRMAN ROBERTI: We'll ask you what we ask all the
11 Governor's Appointees, and that is your qualifications for this
12 position?

13 MR. WISEHART: I qualify on all of the areas enumerated
14 in the Welfare and Institutions Code, either by experience or
15 education or both.

16 I've also had four years' experience as a member of the
17 Board.

18 CHAIRMAN ROBERTI: Is there any discussion or debate?
19 Any opposition in the audience?

20 SENATOR CRAVEN: Move Mr. Wisehart.

21 CHAIRMAN ROBERTI: Senator Craven moves Mr. Wisehart's
22 confirmation to the Floor.

23 Secretary will call the roll.

24 SECRETARY WEBB: Senator Beverly.

25 SENATOR BEVERLY: Aye.

26 SECRETARY WEBB: Senator Mello.

27 SENATOR MELLO: Aye.
28

1 SECRETARY WEBB: Senator Petris. Senator Craven.

2 SENATOR CRAVEN: Aye.

3 SECRETARY WEBB: Senator Roberti.

4 CHAIRMAN ROBERTI: Aye.

5 The vote is four to nothing; confirmation's recommended
6 to the Floor.

7 MR. WISEHART: Thank you, gentlemen.

8 (Thereupon this portion of the Senate
9 Rules Committee hearing was terminated
10 at approximately 4:12 P.M.)

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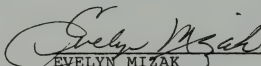
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this
13th day of July, 1989.


EVELYN MIZAK
Shorthand Reporter

